

Rec 6/04/19
R 16398

Real Estate Assets Department
TERMINATION OF AGREEMENT



The following agreement for use of City-owned property will terminate as noted:

LESSEE	PACIFIC SURF SCHOOL
LEASEHOLD ID	H201 PM 015 000
ACTUAL TERMINATION DATE	5/13/19
SECURITY DEPOSITS	Yes ☒ No ☐ \$5000.00
TERMINATION INSPECTION DATE	NA
Subtenants?	Yes ☐ No ☒
Date Subtenants vacated property OR Date of new direct agreement with City	NA

Agent Jayme Vandenberg Date 6/3/19 Supervisor [Signature] Date 6/3/19

*****Lease Billing Use Only*****

Lease Billing Supervisor [Signature] Date 7/08/19
Data Entry _____ Date _____

Lease Billing Supervisor Termination Checklist:

- ☒ Terminate Lease in REportfolio
- ☒ If termination is in the middle of billing period, prorate invoice. Check with agent if necessary.
- ☒ If rent paid beyond termination date, process refund.
- ☒ Void any invoices that have been issued for period after termination date.
- ☒ Refund security deposit per agent instructions. Refund 2014
- ☒ Notify agent that termination, proration and refund (if any) are complete.

1

FILE COPY

101895340 ✓

CONCESSION AGREEMENT

THIS CITY OF SAN DIEGO CONCESSION AGREEMENT ("Agreement") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and Pacific Surf School, Inc. ("CONCESSIONAIRE"), to be effective upon execution by the parties and approval by the San Diego City Attorney ("Effective Date"), as follows:

1. Incorporated Documents. This Agreement is created pursuant to the City of San Diego REQUEST FOR PROPOSAL ("RFP") for Surf Instruction Concessions issued by the CITY on January 14, 2019, and CONCESSIONAIRE's proposal in response to the RFP, dated *January 20, 2019*. Attached and incorporated herein are the following documents: **Exhibit A: Map of Sites; Exhibit B: Operating Plan; Exhibit C: Lifeguard Services Safety Requirements**. Additional terms and conditions listed in the RFP may also apply throughout the term of the Agreement.
2. Right to Enter. Subject to the terms and conditions of this Agreement, CITY hereby grants permission to CONCESSIONAIRE, its employees, agents and contractors to operate Concessions within CITY beach sites ("Site(s)") designated by the CITY. The locations of the Sites included under this Agreement are designated below.

Area/Beach	Sites
Mission Beach	#3 New South Mission Beach
Pacific Beach	#7 Pacific Beach Drive

Concessions at any of the above Sites may be terminated or changed for any reason by CITY upon thirty (30) days written notice from CITY to CONCESSIONAIRE. If CITY terminates a Concession at an existing Site and an alternate Site is not available to CONCESSIONAIRE, a proportionate amount of CONCESSIONAIRE's Minimum Fee (as specified in Section 10.B.) may be adjusted by CITY for the deleted Site.

3. Allowed Uses. This Agreement is granted to CONCESSIONAIRE for the sole purpose of allowing CONCESSIONAIRE to operate surf instruction school/camp and other incidental operations such as boogie boarding and stand up paddle boarding ("Concessions"), serving the general public under the terms and conditions of this Agreement. No solicitation or marketing is permitted on City beaches. Renting or selling of beach equipment or other merchandise is not allowed under this Agreement.
4. Maximum Days and Hours of Operation. Maximum hours of land-based operations are 8:30 a.m. to 6:00 p.m. Water instruction is permitted from 9:00

a.m. to 5:00 p.m. All Concessions must be vacated by 6:00 p.m. daily. The CITY reserves the right to change the days and/or hours of operation at its discretion. Operations are permitted seven (7) days a week with the following exceptions:

- A. ***Under no circumstances are operations permitted on the following City holidays: Independence Day, July 4th.***
 - B. **Special Events.** Unless otherwise authorized by the CITY, CONCESSIONAIRE will not be allowed to operate Concessions within certain areas of the Sites during days in which "Special Events," as defined in San Diego Municipal Code section 22.4003, are scheduled by CITY in this area. CITY will give CONCESSIONAIRE fourteen (14) days advance written notice of any such "Special Events."
5. **Competent Management.** Throughout the term of this Agreement, CONCESSIONAIRE will provide competent management of the Concessions and the Sites for the permitted uses to the satisfaction of the CITY. CONCESSIONAIRE covenants at all times to operate the Concession for the above-specified purposes and diligently conduct the Concessions to maximize gross revenue.
 6. **Term.** The term of this Agreement ("Term") will be will be sixty (60) months, commencing on the Effective Date. Agreement Year ("Agreement Year") as used in this Agreement means each of the five (5) consecutive twelve (12) month periods beginning with the Effective Date. This Agreement may be terminated at any time by either party upon thirty (30) days prior written notice to the other party. Any written notice to this effect will be served in accordance with Section 47 of this Agreement.
 7. **Holding Over.** Any use of the Sites by CONCESSIONAIRE after the expiration of this Agreement is not permitted without the written consent of the CITY. Any such extensions will continue as month-to-month extensions of this Agreement. If CONCESSIONAIRE continues use of Sites after the expiration or earlier termination of this Agreement without obtaining CITY approval, such use shall neither constitute a renewal or extension of this Agreement, nor give CONCESSIONAIRE any rights in or to the Sites. Any holdover of the Term of the Agreement beyond sixty (60) months must be approved by CITY.
 8. **Revocable License.** This Agreement is not a lease. This Agreement is a license to use CITY-owned property, and may be revoked by CITY, in its sole discretion. CITY will not be obligated for any loss, financial or otherwise, which may be incurred by CONCESSIONAIRE as a result of the termination or suspension of this Agreement. CONCESSIONAIRE expressly waives any claim for expense or loss which CONCESSIONAIRE might incur as a result of CITY's termination or

suspension of this Agreement or for the scheduling of any Special Events pursuant to Section 4.B, that conflicts with or prohibits CONCESSIONAIRE's use the Sites.

9. Special Provisions

- A. Operating Plan. The Operating Plan for the proposed Agreement Year submitted with the CONCESSIONAIRE's response to the CITY's RFP, will be revised by CONCESSIONAIRE, if required by CITY to meet CITY's requirement for approval, and the final CITY approved Operating Plan will be incorporated into this Agreement as **Exhibit B: Operating Plan**, attached hereto. *Within sixty (60) days prior to the beginning of the second Agreement Year, and for every Agreement Year thereafter, the CONCESSIONAIRE will provide the CITY with an Operating Plan for the upcoming Agreement Year (twelve (12) calendar months) for the CITY's approval.* All Operating Plans submitted to CITY should be consistent with the format and content of the originally approved Operating Plan. CITY will have the right to approve or disapprove the proposed plan. Once approved, CONCESSIONAIRE will not make any changes to the plan without prior written approval of CITY. At all times, the CONCESSIONAIRE will ensure that all operations permitted under this Agreement comply with the **Exhibit C: Lifeguard Services Safety Requirements**, attached hereto.
- B. Exclusiveness of Agreement and Unauthorized Vending. In addition to Special Events described in Section 4.B., CITY may, during the term of this Agreement, enter into Agreements with other CONCESSIONAIRE's to provide related Concessions during times not scheduled for operations in the approved Operating Plan at the Sites permitted in this Agreement. However, CITY, by granting this Agreement to CONCESSIONAIRE, makes no warranty that the Sites will be free of unauthorized vending or that any specific level of police or lifeguard enforcement against such activities will be maintained.
- C. Concession Sites. On each Site included in this Agreement, CONCESSIONAIRE will erect no improvements except either: 1) one (1) shade structure no greater than twenty (20) feet long by twenty (20) feet wide; 2) no more than two (2) shade structures each no greater than ten (10) feet long by ten (10) feet wide in size; or 3) any shade structure, in the opinion of the CITY, needed to adequately serve the public. CITY reserves the right to require the CONCESSIONAIRE to modify the dimensions of the structure. The Sites must show the approved Concession sign at all times during normal operating hours. The Sites must be designed and maintained so as to present a neat and attractive appearance to the satisfaction of the CITY. Any items or improvements brought on the Sites by CONCESSIONAIRE must be approved by CITY and will not remain on location after permitted hours of operation, unless prior written approval of CITY is obtained. If in the opinion of CITY, the number of Sites within any Concession covered under this Agreement at any time falls short of or exceeds the number of Sites needed to adequately

serve the public, CONCESSIONAIRE will, upon receipt of notice from CITY, adjust the number of Sites to the number specified by CITY. City will not be liable to CONCESSIONAIRE in any way for such adjustments. CONCESSIONAIRE will operate no more and no fewer than the Sites designated in this Agreement unless CITY decides to change the number of Sites.

- D. No Improvements. No improvements, trade fixtures, structures, and installations or additions to the Sites are allowed to be installed by CONCESSIONAIRE. All personal property remaining on the Sites after expiration or termination will become the property of CITY.
 - E. Maintenance of Sites. CONCESSIONAIRE agrees not to commit or allow to be committed any waste or injury or any public or private nuisance, to keep the Sites clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in or about said Sites to the satisfaction of CITY and at CONCESSIONAIRE's sole cost. All Sites must be cleaned up daily by CONCESSIONAIRE or more often, as required.
 - F. Standard of Employees. CONCESSIONAIRE and its employees will at all times conduct themselves and the operation of the Concessions in a respectable and courteous manner. CONCESSIONAIRE will thoroughly train its employees in their duties and will regularly monitor its employees to ensure that they behave in a courteous manner, do not disturb the quiet enjoyment of other beach users, and otherwise comply with all requirements of this Agreement.
10. Fees. CONCESSIONAIRE is required to pay to CITY, on a monthly basis, the greater of either the Percentage Fee ("Percentage Fee") or the Minimum Fee ("Minimum Fee"), as described below. In the event that the combined total amount of fees paid by CONCESSIONAIRE during any Agreement Year equals or exceeds the annual Minimum Fee for that Agreement Year, then CONCESSIONAIRE will only pay the Percentage Fee each subsequent month until either a new Agreement Year begins or this Agreement ends.
- A. Percentage Fees. Percentage Fees will consist of sixteen percent (16.00%) of the gross income resulting from the Concession operations permitted under this Agreement during each month of an Agreement Year. The CITY, in its sole discretion, may approve another percentage rate or minimum rate for each other incidental service or operation supplementary to the permitted uses stated in Section 3, as may be approved in writing by the CITY prior to the commencement of any additional service or operation. However, any activity conducted on the Sites without the prior written approval of the CITY will be subject to the requirements of Section 10.E.
 - B. Minimum Fee. The annual Minimum Fee established for the first Agreement Year following the Effective Date is, \$28,939.36 which is

\$2,411.61 on a monthly installment basis. The monthly Minimum Fee is to be paid in monthly installments on or before the day of the calendar month when the Percentage Fee is due pursuant to Section 10.J.

- C. Minimum Fee Adjustment. Effective at the beginning of the first day of the third and fifth Agreement Years of this Agreement ("Adjustment Date"), the annual Minimum Fee will be set at eighty percent (80.00%) of the annual average of the Total Fees Paid under this Agreement for the two (2) Agreement Years immediately preceding the Adjustment date. The annual average of the Total Fees Paid will then be divided by twelve (12) to establish the new monthly Minimum Fee. It is recognized that the adjustments will be calculated by the CITY upon completion of payments due for the preceding years in order to determine the amount of the Minimum Fee. Until such calculations are completed, CONCESSIONAIRE will continue paying the monthly Minimum Fee at the current rate. Any additional fees determined by the adjustment to be due for the months previously paid at the prior rate will be paid to the CITY within thirty (30) days following written notice provided pursuant to Section 47 of the Agreement. In no event will the Minimum Fee Adjustment result in a decrease in the Minimum Fee requirement in effect immediately prior to the Adjustment Date. In the event that the Total Fees Paid prior to the Adjustment Date do not exceed the current annual Minimum Fee, the annual Minimum Fee will be increased to one-hundred five percent (105.00%) of the annual Minimum Fee most recently in effect.
- D. Delinquent Concession Fee. If CONCESSIONAIRE fails to pay any fees when due, CONCESSIONAIRE will pay the delinquent fee plus a late fee equal to five percent (5%) of the delinquent fee. If fees remain unpaid more than fifteen (15) days past the due date, the late fee will be increased to ten percent (10%) of the delinquent fee, which CONCESSIONAIRE will pay in addition to delinquent fee. The parties agree that such late fees are appropriate to compensate the CITY for loss resulting from delinquent fees, including lost interest opportunities, legal costs, and the cost of servicing the delinquent account.
- E. Unauthorized Use Charge. CONCESSIONAIRE will pay to CITY, as an additional fee, an unauthorized use charge equal to hundred percent (100%) of the Gross Revenue (as defined in Section 10.F.) received from any service or use of the Site by CONCESSIONAIRE that is not allowed under this Agreement. Such payment is subject to the due date provided in the Agreement for fee payments and the provisions for delinquent or unpaid fees. Neither the existence of such an unauthorized use charge nor the payment of such charge, or any part of it, will constitute an authorization of an unauthorized use, and will not be waiver of any of the CITY's rights under the Agreement.

- F. Gross Revenue. ("Gross Revenue") as used in this Agreement, will include all income resulting from the Concession operations whether received or to become due; provided, however, that Gross Revenue will not include federal, state, or municipal taxes collected from the CONCESSIONAIRE (regardless of whether the amount is stated to the consumer as a separate charge) and paid over periodically by CONCESSIONAIRE to a governmental agency accompanied by a tax return or statement as required by law. Gross Revenue includes all revenue received by CONCESSIONAIRE from internet sales (for example, if using a website such as Groupon, Gross Revenue would include all payment received by CONCESSIONAIRE from a Groupon sale). Possessory interest taxes or other property taxes will not be deducted by CONCESSIONAIRE in computing Gross Revenue. Gross Revenues will not include refund of deposits. The amount of taxes and refunds will be clearly shown on the books and records of CONCESSIONAIRE. The Percentage Fee will be calculated and paid by CONCESSIONAIRE on the basis of Gross Revenue whether the income is received by CONCESSIONAIRE or by any of CONCESSIONAIRE's agents, employees, permittees, or representatives, and all Gross Revenue received by any of CONCESSIONAIRE's agents, employees, permittees, representatives, or other party as a result of occupancy or operation of the Site will be regarded as Gross Revenue of CONCESSIONAIRE for the purpose of calculating the Percentage Fee required to be paid by CONCESSIONAIRE to CITY, except as may be otherwise specified by this Agreement.
- G. Payment Procedure. CONCESSIONAIRE will provide CITY with a correct income statement for the Sites operated by CONCESSIONAIRE together with a payment of fees on all applicable Gross Receipts in a form selected by CITY. This income statement will be due to CITY by the end of the calendar month immediately following the month for which the income statement was generated. The income statement will be signed by CONCESSIONAIRE and its authorized agent attesting to the accuracy of the income statement. Each statement will include:
- i. Total Gross Receipts for the subject month itemized as to business categories for which the separate Percentage Fee is established.
 - ii. The amount of the Percentage Fee due to CITY and the manner in which such Percentage Fee was computed and totaled.
 - iii. The accumulated total of all fees previously paid to CITY for the current Agreement Year.
 - iv. Payments in the greater of the two following amounts: The monthly Minimum Fee or the total Percentage Fee due CITY computed as

described in Sections 10.B and 10.A.

H. Inspection Of Records.

- i. Records. CONCESSIONAIRE will at all times during the Term keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities conducted upon and financial transactions resulting from the use of the Site. The records will be supported by source documents such as sales slips, daily cash register tapes, purchase invoices, tour lists, or other documents as necessary to allow CITY to easily determine the Gross Revenue. Any retail sales or charges will be recorded by means of cash registers or other comparable devices which display to the customer the amount of the transaction and automatically issue a receipt. The registers will be equipped with devices that lock in sales totals and other transaction numbers and sales details that are not resettable. Totals registered will be read and recorded at the beginning and end of each business day. Regarding admission charges or concession fees, CONCESSIONAIRE will issue serially numbered tickets for such admission or Concession fees and will keep an adequate record of such tickets, as well as a record of unissued tickets. All retail sales and charges may be recorded by a system other than cash registers of other comparable devices provided such a system is approved by the CITY.
- ii. Financial Statements. *Within sixty (60) days after the end of the each Agreement Year, CONCESSIONAIRE will at its sole cost and expense, submit to CITY a statement in which the total Gross Receipts and the corresponding amounts of Percentage Fees paid to CITY for the previous Agreement Year are classified according to the categories of business established for any Percentage Fees and for any other business conducted on or from the Site. The statement will be signed by CONCESSIONAIRE and a duly authorized financial representative of CONCESSIONAIRE attesting to the accuracy thereof, which will be legally binding upon CONCESSIONAIRE.*
- iii. Right to Inspect. All of CONCESSIONAIRE's books of account, records, and supporting documentation, as described under Section 10.H.i, will be kept for at least five (5) years and made available to CITY in one location within the City of San Diego. These books and records must be maintained separately from all other accounts not relating to the Site. The CITY, at its discretion, will have the right to inspect and audit the business of CONCESSIONAIRE, its agents, representatives and permittees operating on, and in connection with, the Site as necessary and appropriate for CITY to determine the amounts of concession fees due CITY in compliance with the

requirements of this Agreement. At CITY's request, CONCESSIONAIRE will promptly provide, at CONCESSIONAIRE's expense, any necessary data to enable CITY to fully comply with all requirements of the state and federal government for Agreement information or reports concerning the Concessions. Such data will include, if required, a detailed breakdown of CONCESSIONAIRE's receipts and expenses.

iv. Audit Cost. The full cost of the CITY's audit(s) will be borne by CITY unless one or both of the following conditions exists, in which case CONCESSIONAIRE agrees to pay CITY's cost of audit(s):

- a) The audit(s) reveal an underpayment by CONCESSIONAIRE to the CITY of more than five percent (5.00%) on an annual basis for any Agreement Year or more than \$5,000, whichever is less, between the Total Fees Paid as reported and paid by CONCESSIONAIRE pursuant to this Agreement and Concession fees owed as determined by the audit(s).
- b) CONCESSIONAIRE has failed to properly maintain complete and true books, records, accounts, and supporting documents in strict accordance with this section.

v. Any fee deficiency determined by the audit will be considered a delinquent fee, subject to all penalties and remedies provided to CITY for delinquent Concession fees under Section 10.D. CITY will credit any overpayment by CONCESSIONAIRE determined by the audit, without interest, against future fees due under this Agreement. If no future fees are due under this Agreement, CITY will refund CONCESSIONAIRE any overpayment determined by the audit, without interest, within sixty (60) days after CITY's certification of the audit.

I. Default. CONCESSIONAIRE's failure to keep complete and accurate records by means of double-entry bookkeeping and failure to make them available for CITY inspection is, like all other failures to comply with covenants of this Agreement, a material breach of this Agreement and good cause for termination.

J. Time and Place of Payment. Payments are due on or before the last day of the calendar month following the calendar month in which the Gross Revenue subject to the Percentage Fee was earned. Checks will be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 129030, San Diego, California 92112-9030, or delivered to the Office of the City Treasurer, Civic Center Plaza, 1200 Third Avenue, First

Floor, San Diego, California. The place and time of payment may be changed by CITY upon thirty (30) days prior written notice to CONCESSIONAIRE. Mailed payments will be deemed paid upon the date such payment is postmarked by the postal authorities. If any such postmark is illegible, the payment will be deemed paid upon actual receipt by the City Treasurer. CONCESSIONAIRE assumes all risk of loss and responsibility for late payment charges if payments are made by mail.

K. Security Deposit. The CONCESSIONAIRE will deliver to CITY with the executed copies of this Agreement, a good faith deposit in the amount of five thousand dollars (\$5,000.00) in the form of a cashier's or certified check. All or any portion of the principal sum of the security deposit will be available unconditionally to CITY for payment of delinquent fees, for correcting any default or breach of this Agreement by CONCESSIONAIRE, CONCESSIONAIRE's successors or assignees, or for payment of expenses incurred by CITY as a result of CONCESSIONAIRE's failure to faithfully perform all terms, covenants, and conditions of this Agreement. If at the end of the term of this Agreement, CONCESSIONAIRE has performed all of the provisions of the Agreement, the deposit or any remaining balance will be returned to the CONCESSIONAIRE without interest. The security deposit may be increased by CITY proportionate to any increase in the Minimum Fee. ***CONCESSIONAIRE will maintain this security deposit throughout the Term of this Agreement. Notwithstanding any other provision of this Agreement, if CONCESSIONAIRE fails or refuses to deposit or maintain a security deposit as required by this Agreement, CITY may terminate this Agreement immediately upon such breach. Upon such termination, CONCESSIONAIRE will immediately cease its use of the Sites and commence and diligently pursue the removal of its property from the Sites.***

- i. Utilization. If CITY utilizes all or any portion of the security deposit, upon ten (10) days prior written notice, CONCESSIONAIRE will reimburse the security deposit to the full required amount.
- ii. Increase. Upon thirty (30) days prior written notice by CITY, CONCESSIONAIRE will deliver to CITY additional funds as CITY may, in its sole determination, require to adequately secure CONCESSIONAIRE'S obligations under this Agreement.
- iii. Return. Provided CONCESSIONAIRE is not in breach or default of this Agreement, CITY will return the security deposit, or any balance thereof, to CONCESSIONAIRE within sixty (60) days after the expiration or termination of this Agreement.

11. CITY'S Consent, Discretion. Whenever required under this Agreement, CITY's consent or approval will mean the written consent or approval of the CITY, unless

otherwise expressly provided. CITY's discretionary acts hereunder will be made in the CITY's sole and absolute discretion, unless otherwise expressly provided.

12. Acceptance of Sites. CONCESSIONAIRE represents and warrants that it has independently inspected the Sites and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Sites. CONCESSIONAIRE agrees it is relying solely on its independent inspection, tests, investigations, and observations in entering into this Agreement. CONCESSIONAIRE further acknowledges that the Sites are in the condition called for by this Agreement, that CITY has performed all work, if any, related to the Sites and required by this Agreement, and that CONCESSIONAIRE will hold CITY harmless for any defects, whether apparent or latent, in the Sites, including without limitation the presence of any hazardous substances.
13. Maintenance of the Sites. CONCESSIONAIRE will, at CONCESSIONAIRE's sole cost and expense and to CITY's satisfaction, maintain the Sites in a decent, safe, healthy and sanitary condition at all times during the Term.
14. Standard of Conduct. CONCESSIONAIRE and its employees will at all times conduct themselves and the operations on the Sites in a respectable and courteous manner.
15. Inspection. CITY may, at all times, enter and inspect the Sites.
16. Insurance. CONCESSIONAIRE will obtain and maintain throughout the Term of this Agreement, at its sole cost and expense, all insurance required by this Agreement. CONCESSIONAIRE's liabilities under this Agreement, including without limitation CONCESSIONAIRE's indemnity obligations, will not be deemed limited in any way to the insurance coverage required herein. CONCESSIONAIRE's maintenance of the required insurance coverage is a material consideration for this Agreement. Notwithstanding any provision of this Agreement to the contrary, if CONCESSIONAIRE fails to maintain or renew the insurance coverage required herein, or fails to deliver evidence of same to CITY, CONCESSIONAIRE will be in default of this Agreement. CONCESSIONAIRE will not modify any policy or endorsement thereto which increases CITY's exposure to loss. CONCESSIONAIRE will obtain and deliver to CITY's Real Estate Assets Department a current certificate of insurance and relevant endorsements for the following insurance, which will be subject to CITY's written approval thereof:
 - A. Commercial General Liability Insurance ("CGL") written on an *ISO Occurrence form CG 00 01 07 98* or an equivalent form providing coverage at least as broad which will cover liability arising from any and all personal injury, including death, and property damage with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000). There will be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs.

insured claims or contractual liability. All defense costs will be outside the limits of the policy.

- B. Commercial Automobile Liability Insurance, providing coverage for all bodily injury, including death, and property damage on an *ISO form CA 00 01 12 90* or a later version of such form or an equivalent form providing coverage at least as broad for a combined single limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance will cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated in performing any and all work pursuant to this Agreement.
- C. Workers' Compensation Insurance, as required by applicable laws, for all of CONCESSIONAIRE's employees who are subject to this Agreement, with employers' liability coverage with a limit of at least One Million Dollars (\$1,000,000), and an endorsement that the insurer waives the right of subrogation against The City of San Diego and its elected officials, officers, employees, representatives and agents.
- D. Liability Insurance for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence subject to an annual aggregate of Two Million Dollars (\$2,000,000). Such insurance will cover liability arising out of any vehicle (including owned, hired, and non-hired vehicles) operated in performing any and all Concessions or other services pursuant to this Agreement. Coverage will be written on ISO form CA 00 01 12 90, or a later version of this form, or an equivalent form providing equivalent liability coverage.
- E. Additional Insureds. To the fullest extent allowed by law, including without limitation California Insurance Code section 11580.04, each policy must be endorsed to include as insureds "The City of San Diego and its elected officials, officers, employees, representatives and agents" with respect to liability arising out of: (a) ongoing operations performed by CONCESSIONAIRE or on CONCESSIONAIRE's behalf; (b) CONCESSIONAIRE's products; (c) CONCESSIONAIRE's work, including without limitation CONCESSIONAIRE's completed operations performed by CONCESSIONAIRE or on CONCESSIONAIRE's behalf; or (d) the Site.
- F. Primary & Non-Contributory. Each policy must be endorsed to provide that the insurance afforded by Commercial General Liability policies is primary to any insurance or self-insurance of The City of San Diego and its elected officials, officers, employees, representatives and agents as respects operations of the named insured. Any insurance maintained by The City of San Diego and its elected officials, officers, employees, representatives and agents will be in excess of CONCESSIONAIRE's insurance and will not contribute to it.

- G. Severability of Interest. Each policy must be endorsed to provide that CONCESSIONAIRE's insurance will apply separately to each insured against whom claim is made or suit is bought, except with respect to the limits of the insurer's liability and will provide cross-liability coverage.
- H. Qualified Insurer(s). Except for the State Compensation Insurance Fund, all insurance required by this Agreement will only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by CITY. CITY may accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (i.e., the LESLI list). All policies of insurance carried by non-admitted carriers will be subject to all of the requirements for policies of insurance provided by admitted carriers described herein. Each insurer will be subject to CITY's approval in each instance.
- I. Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of CONCESSIONAIRE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.
- J. Continuity of Coverage. All policies will be in effect on or before the first day of the Term, except "course of construction fire insurance" will be in force on commencement of all authorized construction, and full applicable fire insurance coverage will be effective upon completion of each insurable improvement. The policies will be kept in force for the duration of the Term. At least thirty (30) days prior to the expiration of each insurance policy, CONCESSIONAIRE will furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Agreement. CONCESSIONAIRE will provide proof of continuing insurance at least annually during the Term and otherwise upon CITY's request. If insurance lapses or is discontinued for any reason, CONCESSIONAIRE will immediately notify CITY and will immediately obtain replacement insurance as soon as possible.
- K. Modification. To assure protection from and against the kind and extent of risk existing with the Allowed Uses, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time by giving CONCESSIONAIRE thirty (30) days prior written notice. CONCESSIONAIRE will also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to the Allowed Uses.
- L. Accident Reports. CONCESSIONAIRE will immediately report to CITY any accident causing property damage or injury to persons on the Site or otherwise

related to the Allowed Uses. Such report will contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

M. Causes of Loss - Special Form Property Insurance. CONCESSIONAIRE will obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of CONCESSIONAIRE's insurable property related to the Allowed Uses of the Site under this Agreement or the Site in an amount to cover 100 percent (100%) of the replacement cost. CONCESSIONAIRE will deliver a certificate of such insurance to CITY's Real Estate Assets Department

17. Indemnification. CONCESSIONAIRE will defend, indemnify, and hold City and its elected officials, officers, employees, representatives, and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to CONCESSIONAIRE's officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this Agreement or CONCESSIONAIRE's occupancy, use, development, maintenance, restoration, or improvement of the Sites, and all expenses of investigating and defending against same, including without limitation attorneys' fees and costs; provided, however, that CONCESSIONAIRE's duty to indemnify and hold City harmless will not include any established liability arising from the sole negligence or willful misconduct of City and its elected officials, officers, employees, representatives, and agents. City may, at its own discretion, conduct the defense, or participate in the defense, of any claim related in any way to this indemnification. If City elects to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, CONCESSIONAIRE will pay the City for all costs related thereto, including, without limitation, reasonable attorneys' fees and costs.
18. Nondiscrimination. This Agreement is made and accepted upon and subject to the covenant and condition, which will run with the land, that CONCESSIONAIRE or any person claiming under or through CONCESSIONAIRE will not establish or allow any discrimination against or segregation of any person or group of persons on account of race, color, religion, gender, gender identity, gender expression, disability, sexual orientation, marital status, national origin, ancestry, familial status or source of income in the possession, use or occupancy of the Sites or in the selection, location, number, use or occupancy of tenants, subtenants or vendees in the Sites.
19. Local Business and Employment. CONCESSIONAIRE acknowledges that CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. CONCESSIONAIRE will, to the extent legally possible, solicit applications for employment, and bids and proposals for

subcontracts, for work associated with this Agreement from local residents and firms as opportunities occur. CONCESSIONAIRE agrees to hire qualified local residents and firms whenever feasible.

20. Drug-free Workplace. CONCESSIONAIRE will be required to abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- A. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of controlled substances are prohibited on the Sites and specifying the actions that will be taken against employees for violations of the prohibition; and
- B. Establish a drug-free awareness program to inform employees about all of the following:
 - i. The dangers of drug abuse in the workplace;
 - ii. CONCESSIONAIRE'S policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employees assistance programs; and
 - iv. Penalties that may be imposed upon employees for drug abuse violations.

21. Accessibility Compliance. CONCESSIONAIRE will, as applicable to the Sites and CONCESSIONAIRE's possession, use, and occupancy of the Sites, comply with all accessibility requirements under California Government Code sections 11135-11139.5; Title 24 of the California Code of Regulations; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and all other applicable state and federal laws, rules, and regulations of competent governmental authority protecting the rights of individuals with disabilities. When a conflict exists between any federal or state accessibility requirements, CONCESSIONAIRE will follow the most restrictive accessibility requirement (i.e., that which provides the most access). CONCESSIONAIRE's compliance will include without limitation the following:

- A. CONCESSIONAIRE will not discriminate against qualified individuals with disabilities in any aspects of employment, including recruitment, hiring, promotions; conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment;

- B. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of CONCESSIONAIRE;
 - C. CONCESSIONAIRE will post a statement addressing the requirements of the ADA in a prominent place at the work site;
 - D. Where required by law, all improvements, fixtures, structures, or installations on the Sites will comply with municipal, state, and federal accessibility requirements by bringing up to code and making accessible any areas of the Sites which deny access to individuals with disabilities. All improvements and alterations will be at CONCESSIONAIRE's sole expense.
 - E. CONCESSIONAIRE's failure to comply with the accessibility requirements of this section, or submitting false information in response to these accessibility requirements, or both, will be a default of this Agreement.
22. CONCESSIONAIRE'S Risk. CONCESSIONAIRE will bear all risks and liability arising out of or in any manner directly or indirectly connected with CONCESSIONAIRE's occupancy, use, development and maintenance of the Site and any damages to the improvements on, under, or in the vicinity of the Site resulting directly or indirectly thereby.
23. No Nuisance. CONCESSIONAIRE will not use the Sites in any manner which, in CITY's opinion, creates a nuisance or disturbs the quiet enjoyment of persons in and to the surrounding area.
24. No Assignment. CONCESSIONAIRE will not assign any rights granted by this Agreement or any interest herein without CITY's prior written consent. Approval of any such proposed assignment may be withheld in CITY's sole and absolute discretion. Any assignment by operation of law will automatically terminate this Agreement.
25. Signs. CONCESSIONAIRE will display the Concession sign displaying this is an CITY-approved Concession at all times while operating the Concessions. CITY will provide a sign during the first Agreement Year. If such sign is lost or stolen, CONCESSIONAIRE must obtain a duplicate sign and its sole expense. CONCESSIONAIRE will not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising without CITY's prior written consent. If any such unauthorized item is found on the Sites, CONCESSIONAIRE will remove the item at its expense within 24 hours from receiving notice by CITY, or CITY may thereafter remove the item at CONCESSIONAIRE's cost.
26. Charter Section 225. Pursuant to San Diego City Charter Section 225, CONCESSIONAIRE and assignees will make a full and complete disclosure of the

name and identity of any and all persons directly or indirectly involved in this Agreement and the precise nature of all interests of all persons therein. CONCESSIONAIRE's failure to fully disclose all of the information required by Charter Section 225 or CONCESSIONAIRE's failure to require each of its assignees to fully disclose such information will be a default of this Agreement. Pursuant to City Charter Section 225, every person or entity that will have an interest in this Agreement as an assignee must be reviewed and approved by City.

27. Advertisement and Marketing. Any advertising or marketing which reference the City of San Diego may not be distributed by the CONCESSIONAIRE without the advanced written approval of the CITY. If CONCESSIONAIRE uses the City of San Diego in any context to promote its business operations without prior written approval by CITY, CONCESSIONAIRE will be considered to be in default. No advertising or marketing materials of any kind may be posted or distributed on any City beach without the advanced written approval of the CITY.
28. Encumbrances. CONCESSIONAIRE will keep the Site free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with this Agreement or CONCESSIONAIRE's occupancy, use, development, or maintenance of the Sites. CONCESSIONAIRE will protect, defend, indemnify, and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without limitation all attorney fees and costs, relating to or charged against the Sites, including without limitation CONCESSIONAIRE's failure or the failure of any contractor or subcontractor hired by CONCESSIONAIRE to pay any person or persons referred to in Section 3181 of the California Civil Code or other applicable sections thereof.
29. Defaults and Remedies.
- A. Default by CONCESSIONAIRE. Except for Safety Violations (as defined under Subsection B below) which are grounds for immediate termination, in the event that:
- i. CONCESSIONAIRE will default in the performance or fulfillment of any covenant or condition required by this Agreement to be performed or fulfilled by CONCESSIONAIRE, including any covenant or condition in CONCESSIONAIRE's Operating Plan and will fail to cure the default within thirty (30) days following written notice from CITY; or if any default is not curable within thirty (30) days, and CONCESSIONAIRE will fail to commence to cure the default(s) within said thirty (30) day period and diligently pursue cure to completion;
 - ii. CONCESSIONAIRE will voluntarily file or have involuntarily filed against it any petition under bankruptcy or insolvency act or

law; or

- iii. CONCESSIONAIRE will make a general assignment for the benefit of creditors;

then CITY may, at its option, without further notice or demand upon CONCESSIONAIRE or upon any person claiming rights through CONCESSIONAIRE, immediately terminate this Agreement and all rights of CONCESSIONAIRE and of all persons claiming rights through CONCESSIONAIRE to the Concession Sites or to possession thereof, and CITY may then enter and take possession of the Sites and expel CONCESSIONAIRE and all persons so claiming rights thereto. Provided; however, in the event that any default described in Part (1)a. of this section is not curable within thirty (30) days after written notice to CONCESSIONAIRE, CITY will not terminate this Agreement pursuant to the default if CONCESSIONAIRE immediately commences to cure the default and diligently pursues cure to completion. In any event, either party may terminate this Agreement without cause by giving ninety (90) days written notice of intent to terminate to the other party.

- B. Safety Violations by CONCESSIONAIRE. Notwithstanding subsection A above, in the event CONCESSIONAIRE will default in the performance or fulfillment of any covenant or condition required by this Agreement to be performed or fulfilled by CONCESSIONAIRE, including any covenant or condition in CONCESSIONAIRE's Operating Plan, and said default by CONCESSIONAIRE consists of any violation of municipal, state or federal law, or any covenants or conditions in CONCESSIONAIRE's Operating Plan or Lifeguard Services Safety Requirements that, in CITY's sole discretion, relate to public safety ["Safety Violations"], CITY may, at its option, require CONCESSIONAIRE to immediately cure said default, or, without further notice or demand upon CONCESSIONAIRE or upon any person claiming rights through CONCESSIONAIRE, suspend or revoke this Agreement.
- C. Abandonment by CONCESSIONAIRE. In the case that CONCESSIONAIRE breaches this Agreement and abandons the Site, this Agreement will continue in full force and effect for so long as CITY does not terminate this Agreement, and CITY may enforce all its rights and remedies under this Agreement, including, but not limited to, the right to recover the Concession fee as it becomes due, plus damages. For purposes of this section, the following do not constitute a termination of CONCESSIONAIRE's right to possession or operation:
 - i. Acts by CITY of maintenance, preservation, or efforts to negotiate a new Agreement.

- ii. The appointment of a receiver upon initiative of CITY to protect CITY's interest under this Agreement.

30. Damages. CITY, in the event of CONCESSIONAIRE's default under this Agreement, may recover the outstanding annual Minimum Fees due for the remaining term of the Agreement, less any mitigation measures taken by CITY. The remedies provided by this section are not exclusive and will be cumulative to all other rights and remedies possessed by CITY, and nothing contained herein will be construed so as to defeat any other rights or remedies possessed by CITY, and nothing contained herein will be construed so as to defeat any other rights or remedies to which CITY may be entitled.
31. Compliance with Laws. CONCESSIONAIRE will, at its sole cost and expense, comply with all the requirements of all rules, regulations, ordinances, laws and direction of governing authorities now in effect or which may hereafter be in effect, which pertain to CONCESSIONAIRE's occupancy, use, development, and maintenance of the Site.
32. Taxes. CONCESSIONAIRE will pay, before delinquency, all taxes, assessments, and fees assessed or levied upon CONCESSIONAIRE by reason of the business or other CONCESSIONAIRE activities related to the Sites, including any licenses or permits. CONCESSIONAIRE acknowledges that this Agreement may create a possessory interest subject to property taxation, and that CONCESSIONAIRE may be subject to the payment of taxes levied on that interest. CONCESSIONAIRE will be fully and solely responsible for payment of all such possessory interest taxes. CONCESSIONAIRE's payment for taxes, fees, and assessments will not reduce any payment due CITY under this Agreement.
33. Equal Opportunity. CONCESSIONAIRE will comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375 and 12086; the California Fair Employment Practices Act; and all other related and applicable federal and state laws and regulations. CONCESSIONAIRE will not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition or place of birth. CONCESSIONAIRE will cause the foregoing provisions to be inserted in all of CONCESSIONAIRE's contracts for work related to this Agreement so that such provisions will be binding upon each of CONCESSIONAIRE's contractors. CONCESSIONAIRE will fully cooperate with any investigation conducted by CITY pursuant to CITY's Nondiscrimination in Contracting Ordinance (i.e., San Diego Municipal Code sections 22.3501-22.3517, as amended from time to time), and upon CITY's request CONCESSIONAIRE will submit a current Workforce Report. CONCESSIONAIRE acknowledges that failure to comply with the requirements of this section and/or submitting false information in response to these requirements may result in termination of this Agreement and debarment from participating in CITY contracts for a period of not less than one (1) year.

34. Equal Benefits. CONCESSIONAIRE will comply with San Diego Municipal Code sections 22.4301-22.4308, as may be amended from time to time, which require concessionaires of CITY-owned property to offer the same employment benefits to employees with spouses and employees with registered domestic partners. By signing this Agreement, CONCESSIONAIRE certifies that it will maintain such equal benefits throughout the term of this Agreement. CONCESSIONAIRE's failure to maintain equal benefits will be a default of this Agreement.
35. Equal Pay Ordinance. Unless an exception applies, CONCESSIONAIRE will comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. By signing this Agreement, CONCESSIONAIRE certifies that it will comply with the requirements of the Equal Pay Ordinance throughout the Term.
- A. Notice Requirement. CONCESSIONAIRE must post a notice informing its employees of their rights under the Equal Pay Ordinance in their workplace or job site.
36. CITY Employee Participation Policy. CITY may unilaterally and immediately terminate this Agreement if CONCESSIONAIRE employs an individual who, within the twelve (12) months immediately preceding such employment did, in their capacity as a CITY officer or employee, participate in negotiations with or otherwise have an influence on a recommendation made to the San Diego City Council related to the selection of CONCESSIONAIRE for this Agreement. It is not the intent of this policy that these provisions apply to members of the City Council.
37. Water Quality Assurances. The CITY and CONCESSIONAIRE are committed to the implementation of control (best management practices, or BMPs) to manage activities on the Sites in a manner which aids in the protection of the City of San Diego's precious water resources. It is the CONCESSIONAIRE's responsibility to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of Section 43.03, Stormwater Ordinance.
- Therefore, CONCESSIONAIRE will, at a minimum, implement and comply as applicable with the BMPs for industrial and commercial facilities adopted under the San Diego Municipal Code Section 43.0307 (a).
- It is ultimately CONCESSIONAIRE's responsibility to prevent pollutant discharges to the storm drain system. Therefore, CONCESSIONAIRE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.
38. Hazardous Substances. CONCESSIONAIRE will not allow the illegal installation, storage, utilization, generation, sale or release of a Hazardous Substance or otherwise regulated substance in, on, under or from the Sites. CONCESSIONAIRE and CONCESSIONAIRE's agents and contractors will not install, store, utilize, generate or sell any Hazardous Substance on the Sites without CITY's prior written

consent. CONCESSIONAIRE will, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.

- A. Release. A “release” will include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a hazardous substance.
- B. Hazardous Substance. “Hazardous Substance” will mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.
- C. Remediation. If CONCESSIONAIRE’s occupancy, use, development, maintenance or restoration of the Sites results in a release of a Hazardous Substance, CONCESSIONAIRE will pay all costs of remediation and removal to the CITY’s satisfaction for unrestricted reuse of the Sites, and in accordance with all applicable laws, rules and regulations of governmental authorities.
- D. Removal. If CONCESSIONAIRE or CONCESSIONAIRE’s contractor or agent has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances or hazardous wastes to the Sites, CONCESSIONAIRE and/or CONCESSIONAIRE’s contractor or agent will remove all Hazardous Substances and hazardous wastes in any type of container, equipment or device from the Sites immediately upon or prior to the expiration or earlier termination of this Agreement. Upon CITY’s request, CONCESSIONAIRE will deliver to CITY true copies of documentation demonstrating the legal removal and/or disposal of the Hazardous Substances and/or hazardous wastes, containers, equipment or devices from the Sites. CONCESSIONAIRE will be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this provision.
- E. Indemnity. CONCESSIONAIRE will protect, defend, indemnify and hold CITY harmless from any and all claims, costs and expenses related to environmental liabilities resulting from CONCESSIONAIRE’s occupancy, use, development, maintenance or restoration of the Sites, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any

necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, CONCESSIONAIRE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.

F. Notice of Release. If CONCESSIONAIRE knows or has reasonable cause to believe that a Hazardous Substance or petroleum related substance or its chemical constituents has been released on, from or beneath the Sites, CONCESSIONAIRE will immediately notify CITY and any appropriate regulatory or reporting agency in compliance with California Code of Regulations Title 19 and all other applicable laws or regulations. CONCESSIONAIRE will deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If CONCESSIONAIRE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, CONCESSIONAIRE will take all actions necessary to alleviate the danger. CONCESSIONAIRE will immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Sites.

G. Environmental Assessment. Upon reasonable cause to believe that CONCESSIONAIRE's occupancy, use, development, maintenance or restoration of the Sites ("CONCESSIONAIRE's Operations"), resulted in any Hazardous Substance being released on, from or beneath the Sites, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment will be obtained at CONCESSIONAIRE's sole cost and expense, and will establish what, if any, Hazardous Substances have more likely than not been caused by CONCESSIONAIRE's Operations on, in, from or under the Sites, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by city, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Sites, then the environmental assessment will include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. CONCESSIONAIRE will cause, or if CONCESSIONAIRE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, CITY may cause the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Sites and compliance with environmental law and regulations are achieved, and CONCESSIONAIRE will pay all costs and

expenses therefor.

39. Storm Water Pollution Prevention Program. CONCESSIONAIRE will comply with the CITY's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the San Diego Municipal Code, as may be amended, and any and all applicable Minimum Best Management Practice requirements, as defined in the City's Jurisdictional Runoff Management Plan, in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of CITY regardless of location.
- A. CONCESSIONAIRE will comply with the CITY's Jurisdictional Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within CITY boundaries as adopted by the CITY's City Council on July 1, 2015, via Resolution No. 309791, as may be amended.
- B. CONCESSIONAIRE will comply with each CITY facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.
40. Waiver. The property constituting the Sites is publicly owned and held in trust for the benefit of CITY's citizens. CITY's failure to insist upon the strict performance of any of CONCESSIONAIRE's obligations under this Permit, in one or more instance, will not be construed as a waiver of any such obligation, and the same will remain in full force and effect. CITY's waiver of a default will not be a waiver of any other default. Any waiver of a default must be in a writing executed by CITY to constitute a valid and binding waiver. CITY's delay or failure to exercise a right or seek a remedy will not be deemed a waiver of that or any other right or remedy under this Agreement, at law, or in equity. The exercise of any particular right or the use of any particular remedy for any default will not waive the use of any other right or remedy for the same default or for another or later default. CITY's acceptance of any rents will not be a waiver of any default preceding the rent payment. CITY's failure to discover a default or take prompt action to require the cure of any default will not result in an equitable estoppel, but CITY may at any and all times require the cure of the default.
41. Survival. Any obligation which accrues under this Agreement prior to its expiration or termination will survive such expiration or termination.
42. Joint and Several Liability and Responsibility. If CONCESSIONAIRE includes more than one person or legal entity, each such person and legal entity will be jointly and severally liable and responsible for the performance of each and every obligation of CONCESSIONAIRE under this Agreement.
43. Partial Invalidity. If any term, covenant, condition, or provision of this Agreement

is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.

44. Number and Gender. Words of any gender used in this Agreement will include any other gender, and words in the singular number will include the plural, when the tense requires.
45. Captions. Section headings and captions will not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Agreement. The numbers of the paragraphs and pages of this Agreement may not be consecutive. Such lack of consecutive numbers will have no effect on the enforceability of this Agreement.
46. Entire Agreement. This Agreement, along with all exhibits and incorporated documents, constitutes the entire Agreement between the parties and supersedes any and all prior understandings, representations, warranties and Agreements between them and pertaining to this Agreement and CONCESSIONAIRE's occupancy, use, development, and maintenance of the Sites. Any modification, alteration, or amendment of this Agreement will be in writing and signed by all the parties hereto.
47. Notices. Any notice required or permitted to be given under this Agreement will be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to CITY or CONCESSIONAIRE, respectively, as follows:

The CITY OF SAN DIEGO
Real Estate Assets Department
Attention: Director, Real Estate Assets
Department 1200 Third Avenue, Ste 1700 MS
51A
San Diego, CA 92101

CONCESSIONAIRE:
PACIFIC SURF School
4124 MISSION BLVD
SAN DIEGO CA 92109

48. Governmental Approvals. By entering into this Agreement, neither CITY nor CITY's City Council is obligating itself to any governmental agent, board, commission, or agency with regard to any other discretionary action relating to CONCESSIONAIRE's occupancy, use, development, or maintenance of the Sites. Discretionary action includes but is not limited to re-zonings, variances, environmental clearances, or any other governmental approvals which may be

required for CONCESSIONAIRE's occupancy, use, development, or maintenance of the Sites.

49. San Diego's Strong Mayor Form of Governance. All references to "CITY" in this Agreement will be deemed to refer to "the Mayor or his/her designee." This section will remain in effect for the duration CITY operates under the mayor-council (commonly referred to as "strong mayor") form of governance pursuant to Article XV of the San Diego City Charter.
50. City's Not-Liability. CITY will not be liable to CONCESSIONAIRE, its employees, agents, or representatives for any loss of revenue, business, or otherwise as a result of any weather conditions, beach closures, surf alerts, floods, fire, or any other acts of God, strikes, lockouts, labor disputes, unusual governmental delays, epidemics, freight embargoes, causes beyond the reasonable control of CITY, or in the CITY's performance of any act related to protecting the public health and safety.
51. Authority to Contract. Each individual executing this Agreement on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Agreement on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing Agreement, and that this Agreement is binding upon such person or entity in accordance with its terms. Each person executing this Agreement on behalf of another person or legal entity will provide CITY with evidence, satisfactory to CITY, that such authority is valid.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement is executed to be effective as of the Effective Date.

CONCESSIONAIRE

By: Pacific Sun F School
Name: [Signature]
Title: PRESIDENT Emiliano ABATE

THE CITY OF SAN DIEGO, a California
municipal corporation

By: [Signature]
Cybele L. Thompson
Director, Real Estate Assets Department

Environmental Analysis Section Environmental Clearance:

This activity (i.e. Concession Agreement) is categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities) and 15311 (Accessory Structures).

Date: 5/24/19

BY: [Signature]
Name: Alyssa Muto
Planning Department

Approved as to form this

14 Day of May, 2019

MARA W. ELLIOTT, City Attorney

BY: [Signature]
Name: NOAH J BRAZIER
Title: Dep City Attorney

EXHIBIT A: MAP OF SITES

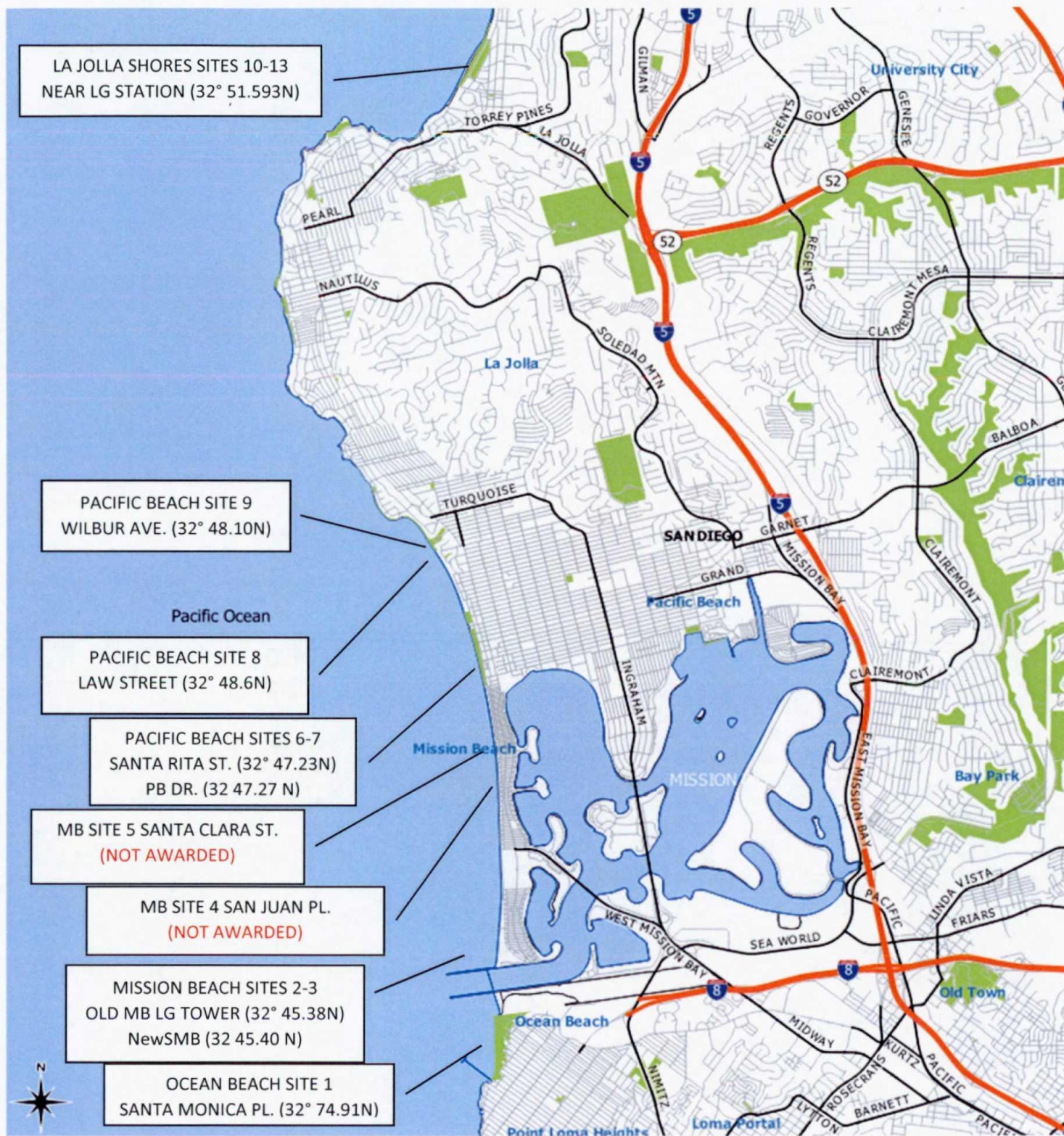


EXHIBIT B- OPERATING PLAN



Pacific Surf School, Inc.

Pacific Surf School
4121 Mission Boulevard
San Diego, CA 92109
(858) 488-2685
www.pacificsurf.com

TABLE OF CONTENTS

OPERATING PLAN (MULTIPLE SITES)	4
Description of Programs, Activities, and Services	5
Days and hours of operation	8
Schedule of Daily Surf Lessons	9
Schedule of Full Day Surf Camp	10
Schedule of Half Day Surf Camp	11
Number of students per class	12
Fees and Charges	12
Summary of the material covered in each class	13
Interpretive Program or Activity Details	13
Lifeguard Services Safety Requirements	15
Necessary Equipment	20
Community needs and number of clients served	21
OPERATING PLAN - PACIFIC BEACH - SITE 6, SANTA RITA ST. (32° 47.23N)	24
Description of Programs, Activities, and Services	25
Days and hours of operation	28
Schedule of Daily Surf Lessons	29
Schedule of Full Day Surf Camp	30
Schedule of Half Day Surf Camp	31
Schedule of Adaptive Surf	32
Number of students per class	33
Fees and Charges	33
Summary of the material covered in each class	34
Interpretive Program or Activity Details	34
Lifeguard Services Safety Requirements	36
Necessary Equipment	41
Community needs and number of clients served	42



OPERATING PLANS

Pacific Beach - Site 7, Pacific Beach Dr. (32° 47.27 N) - Current site

Ocean Beach - Site 1, Santa Monica Ave. (32° 74.91N) Current site

Mission Beach - Site 5, Santa Clara St. (32° 46.57N) - Previously leased site



OPERATING PLAN (MULTIPLE SITES)

Please see on the following pages the operating plan for the proposed sites listed below:

- **Pacific Beach - Site 7, Pacific Beach Dr. (32° 47.27 N) - Current site**
- **Ocean Beach - Site 1, Santa Monica Ave. (32° 74.91N) Current site**
- **Mission Beach - Site 5, Santa Clara St. (32° 46.57N) - Previously leased site**



PACIFIC SURF SCHOOL

Storefront Address: 4121 Mission Blvd, San Diego, CA 92109
www.pacificsurf.com



OCEAN BEACH
— SURF SCHOOL —

OCEAN BEACH SURF SCHOOL

Storefront Address: 5022 Santa Monica Ave, San Diego, CA 92107
www.oceanbeachsurfschool.com



MISSION BEACH SURFING SCHOOL



SURFER GIRLS

A Pacific Surf Company

MISSION BEACH SURF SCHOOL / SURFER GIRLS

www.missionbeachsurfschool.com
www.alohasurfergirls.com



Pacific Surf School, Inc.

Description of Programs, Activities, and Services

- **Private lessons daily:**
Private lessons are 90 minutes long, consisting of 1:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.
- **Semi-private lessons:**
Semi-private lessons are 90 minutes long, consisting of 2-3:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.
- **Group lessons daily**
Semi-private lessons are 90 minutes long, consisting of 4-5:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.
- **Weekend clinics**
Our weekend clinics geared toward the hard-working Monday to Friday customer that would love to learn how to surf and spend some time at the beach while pursuing a love for surfing. Our classes meet on Saturday and Sunday mornings at 9 AM starting out with a 90 min surf lesson followed by a complementary surfboard and wetsuit rental until 5 PM.
- **Corporate team building events**
Perfect for team building, reinventing the typical "board meeting. We have created a unique and fun approach to team building which will enhance the employee's communication and teamwork and an exciting atmosphere. The event is two hours long, consisting of a 90 min group surf lesson and lunch. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.
- **Bachelor and Bachelorette parties**
A very special way to celebrate with friends and family. Fun memories are guaranteed during our 90 min group lesson, catering from groups of 5 up to 25 people, including a classic Hawaiian group photo. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.



- **Birthday parties**

Our custom birthday surf parties provide an unforgettable experience for any age. With the choice of one of our two packages, clients can choose to surf 90 min up to 2 hours. We can also provide food, certificates and photos for everyone. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.

- **5-day Surf Camp full day (summer only, kids and teens, 5 to 15 years old)**

Along with an awesome week of surfing the students participate in water safety and ocean environment educational training. Our team of instructors at surf camp San Diego will work individually with each student to make sure that they learn to surf the correct way, without creating any "bad habits". Watch yourself progress to another level of surfing by the end of the week with our proven teaching techniques and water safety instruction. On the final day of camp, we like to add some friendly competition into the mix so that the students are able to show off what they've learned. Full week campers receive a Friday pizza party, award ceremony, surf competition and a Pacific Surf School t-shirt.

9 AM to 3 PM, Monday to Friday. 4:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.

- **5-day Surf Camp half day (summer only, kids and teens, 5 to 15 years old)**

Along with an awesome week of surfing the students participate in water safety and ocean environment educational training. Our team of instructors at surf camp San Diego will work individually with each student to make sure that they learn to surf the correct way, without creating any "bad habits". Watch yourself progress to another level of surfing by the end of the week with our proven teaching techniques and water safety instruction. On the final day of camp, we like to add some friendly competition into the mix so that the students are able to show off what they've learned. Full week campers receive a Friday pizza party, award ceremony, surf competition and a Pacific Surf School t-shirt.

9 AM to 12 PM, Monday to Friday. 4:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.

- **3-day Surf Camp full day (summer only, kids and teens, 5 to 15 years old)**

Along with an awesome week of surfing the students participate in water safety and ocean environment educational training. Our team of instructors at surf camp San Diego will work individually with each student to make sure that they learn to surf the correct way, without creating any "bad habits". Watch yourself progress to another level of surfing by the end of the week with our proven teaching techniques and water safety instruction. On the final day of camp, we like to add some friendly competition into the mix so that the students are able to show off what they've learned.

9 AM to 3 PM, Monday to Wednesday. 4:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.



- **3-day Surf Camp half day (summer only, kids and teens, 5 to 15 years old)**

Along with an awesome week of surfing the students participate in water safety and ocean environment educational training. Our team of instructors at surf camp San Diego will work individually with each student to make sure that they learn to surf the correct way, without creating any "bad habits". Watch yourself progress to another level of surfing by the end of the week with our proven teaching techniques and water safety instruction. On the final day of camp, we like to add some friendly competition into the mix so that the students are able to show off what they've learned.

9 AM to 12 PM, Monday to Wednesday. 4:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.



Days and hours of operation

With our advanced booking system, clients are only be allowed to choose lesson times of 9:00 AM, 10:45 AM, 12:45 PM, 2:30 PM and 4:00 PM, ensuring no lessons are performed outside the RFP permitted time frame. In addition, every holiday which operations are not permitted as per the RFP is blocked on our booking system, not allowing clients or employees to book surfing lessons on these days: **New Year's Day, Martin Luther King, Jr. Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.**

Surf Lessons

Operational year-round.

Monday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Tuesday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Wednesday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Thursday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Friday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Saturday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Sunday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM

Surf Camp

From June to September.

3-Day Half Day	Monday to Wednesday	09:00 AM to 12:00 PM
3-Day Full Day	Monday to Wednesday	09:00 AM to 03:00 PM
5-Day Half Day	Monday to Friday	09:00 AM to 12:00 PM
5-Day Full Day	Monday to Friday	09:00 AM to 03:00 PM

*** No lessons on New Year's Day, Martin Luther King, Jr. Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.**



Schedule of Daily Surf Lessons

Private Lessons, Semi-Private Lessons, Group Lessons, Weekend Clinics, Corporate team building events, Bachelor and Bachelorette Parties, Birthday Parties

Duration	Description
25 minutes	Land lesson, includes water safety procedures, surf technique, and pre-surf warm up. Simulated techniques. Instructors demonstrate surf techniques. Suit up and apply sunscreen.
5 minutes	Hand signals and whistle signals. Ensure all students follow signals and have a good understanding of all safety procedures.
60 minutes	Water instruction session begins. Includes pre-entry considerations including current and tide observation and entry plan. Students practice techniques under supervision of instructors.
Total Duration: 90 minutes	End of lesson.



Schedule of Full Day Surf Camp

Time	Description
08:45 AM	Arrival and Check-in: Students check in and are issued the required rash guard and wetsuit.
9:00 AM	Introductions are made. Daily agenda is reviewed and land lesson is given. Land lesson includes water safety procedures, surf technique, and pre-surf warm up, and group stretch.
9:30 AM	Water instruction session begins. pre-entry considerations including current and tide observation and entry plan. Hand signals and whistle signals. Ensure all students follow signals and have a good understanding. Simulated techniques. Instructors demonstrate surf techniques. Students practice techniques under supervision of instructors.
10:30 AM	Class breaks for hydration, snacks and reapply sunscreen.
11:00 AM	Beach activity, sports as soccer, frisbee, football, beach games, etc. Quick beach clean-up.
12:00 PM	Lunch, rest, hydration and reapply sunscreen. Getting ready for second session.
1:00 PM	Second session begins, students practice surf techniques under supervision of instructors.
2:30 PM	Completion of water activities, break for hydration and snacks. Take off wetsuits, help cleaning up beach, cleaning suits and getting ready to leave.
3:00PM	Class ends, parents pick up students. All students stay under supervision of instructors under the canopy in the shade until all students are picked up.



Schedule of Half Day Surf Camp

Time	Description
08:45 AM	Arrival and Check-in: Students check in and are issued the required rash guard and wetsuit.
9:00 AM	Introductions are made. Daily agenda is reviewed and land lesson is given. Land lesson includes water safety procedures, surf technique, and pre-surf warm up. Group Stretch.
9:30 AM	Water instruction session begins. Includes pre-entry considerations including current and tide observation and entry plan. Hand signals and whistle signals. Ensure all students follow signals and have a good understanding. Simulated techniques. Instructors demonstrate surf techniques. Students practice techniques under supervision of instructors.
11:00 AM	Class breaks for hydration, snacks and reapply sunscreen.
11:30 AM	Beach activity, sports as soccer, frisbee, football, beach games, etc. Quick beach clean-up.
12:00 PM	Class ends, parents pick up students. All students stay under supervision of instructors under the canopy in the shade until all students are picked up.



Number of students per class

Per the Concession Agreement, there will be a maximum of 50 students in each class, with a maximum of 25 in the water at any one time.

Ratio Surf **Camp**: 1 instructor for every 4 students.

Ratio Surf **Lessons**: 1 instructor for every 5 students.

Our advanced booking system blocks the given time frame when 25 students are booked. Example: if we have 23 students currently booked for the 9 AM time frame and a family of 4 is trying to book a lesson at the same time, the system will not allow the booking to go through, showing the time as "sold out" and will suggest the next available times.

Fees and Charges

Private lessons	\$95.00 pp + Tax
Semi-private lessons	\$75.00 pp + Tax
Group lessons	\$65.00 pp + Tax
Weekend clinics	\$185.00 pp + Tax
Corporate team building events	\$65.00 pp and up + Tax
Bachelor and Bachelorette parties	\$65.00 pp and up + Tax
Birthday parties	\$65.00 pp and up + Tax
5-day Surf Camp full day (summer only)	\$475.00 pp + Tax
5-day Surf Camp half day (summer only)	\$285.00 pp + Tax
3-day Surf Camp full day (summer only)	\$285.00 pp + Tax
3-day Surf Camp half day (summer only)	\$215.00 pp + Tax



Summary of the material covered in each class

At the start of each class, Pacific Surf School's team of instructors educate students on the fundamentals of surfing, highlighting the importance of safety along with ocean awareness and the environment. Please see below a brief summary of the topics reviewed in each one of our classes:

- Ocean awareness
- Safety/Hazards
- Lifeguard location
- Surfing Etiquette
- Beaches and Waves (beach breaks, reef breaks, point break, wave formation)
- Surfing Technique (paddling, foot position, pop-ups, balance)
- Marine Life
- Environmental awareness
- History of Surfing and Terminology
- Surfboards and its parts

For each class meeting, one interpretive program or activity is required.

These programs might include discussions on topics including marine life, coastal preservation, and water safety procedures.

Interpretive Program or Activity Details

- Ocean awareness: Our instructors explain to students how enter and exit the water in a safe location, to never turn your back to the ocean, importance of using a reef safe sunblock.
- Safety/Hazards: Exiting the surfboard correctly, stay very clear and how to identify rip currents, sand bars and holes, rocks and reefs, identifying hazardous ocean conditions.
- Lifeguard location: All of our instructors point out to students regarding the importance of knowing the Lifeguard location as well as how to identify when the Lifeguards are on and off duty.
- Surfing Etiquette: Our instructors describe to students the importance of surfing ethicacy to ensure the sport remains safe, we also explain about right of the way, not to dropping in, not to ditch your board, always reminding that the ocean is a dangerous place and requires proper thought to safety at all times.
- Beaches and Waves: Without waves you simply cannot surf, that being said waves are the most important part of surfing. We go through how waves are formed, how waves break 3-5 in a set and how often times the third wave in a set will be the largest, since our site locations are set on beach breaks we briefly touch upon different types of breaks as reef breaks, point breaks, etc.



- **Surfing Technique:** Different ways to get over the waves as push up over a wave, duck dive and turn turtle, keeping legs together and body tight, all of our instructors give the students a reference point for their toes. We go through balance explaining the stringer of the board and how it functions to balance.
- **Marine Life:** Stingray shuffle and a brief discussion on marine biology.
- **Environmental awareness:** Always picking up your trash, the importance of using a reef safe sunblock, water quality and conservation. Our instructors even encourage students to pick up at least one piece of trash before leaving the beach.
- **History of Surfing/Terminology:** A excerpt about the beginning of surf, its common terms, expressions and language. As well as lifestyle.
- **Surfboards and its parts:** Although we use foam boards for our students, we briefly touch upon different kinds of boards, their characteristics and uses.



Lifeguard Services Safety Requirements

1. Maximum number of participants/boards on the beach and in the water

A maximum of 50 students per Site will be on the beach at any one time. Of those fifty students, a maximum of twenty-five students per group will be in the water at any one time.

2. Identifying Markers

All PSS instructors will wear red rashguards with Pacific Surf School's name and logo on the front and "Surf Instructor" on the back. PSS students will wear a bright blue rashguard with Pacific Surf School's name and logo on the front and back. Both students and instructors will wear their rashguards at all times while in the water. In each and every PSS site, our instructors and students wear the exact same colors as mentioned above.

The CITY-issued sign with Pacific Surf School's name is clearly posted at each Site, whenever classes are in progress.



3. Student to instructor ratios

For every surf lesson there is a 1:5 instructor to student ratio. For every surf camp session our maximum instructor to student ratio is 1:4. At no time will PSS exceed the maximum instructor to student ratio. Anytime students are in the water at least one American Red Cross certified instructor will be present and supervising the class.

4. Beach Access

PSS will not exclude the public from any Site. Beach access will be kept clear at all times. Surfboards will be stacked next to our canopy in neat piles with no more than 5 boards, not obstructing beach access.



5. Concession Site/Location

Pacific Surf School operates from our assigned Sites on the beach sand only. In-water operations are conducted in the immediate surfing area in front of our beach sites. Based on safety considerations, Lifeguards may approve an alternate water operations site. PSS' children and teen campers meet at PSS's Storefront where they are escorted to the designated site. In regards to the SUP launch at La Jolla sites this does not apply to PSS as we don't operate in La Jolla.

6. Equipment

PSS provides equipment to all students, including a soft foam surfboard with a leash; hardboards have a nose guard and tail guard protection. All SUPs have leashes.

7. Minimum Requirements for Instructors

The minimum age for an instructor for Pacific Surf School, Inc. is eighteen (18) years of age.

Every PSS instructor possesses the following required certifications:

Surf camp instructors must possess any one (1) of the following certifications:

- a. American Red Cross, "Lifeguarding"
- b. Miramar College, "Introduction to Open Water Lifeguard"
- c. Water Safety Specialist, "Surfing Instructor Safety Training"
- d. Other certification whose curriculum is approved by the Lifeguard Division.

Additionally, surf camp instructors must possess any one (1) of the following CPR certifications:

- a. American Red Cross
- b. American Heart Association
- c. Any other nationally recognized basic CPR training with certification

Finally, surf camp instructors must possess any one (1) of the following certifications:

- a. Emergency Medical Technician (EMT)
- b. American Red Cross Emergency Response
- c. American Red Cross First Aid Basic
- d. Any other nationally recognized first aid course with certification.

PSS only hires experienced surfers, with strong knowledge of the ocean, great personality skills, good attitude and great leadership ability. In addition to being hired every instructor must shadow five lessons with a lead surf instructor and then complete a 8 hours (1 full day) of paid training. PSS also runs a background check by the Department of Justice for every employee.



8. Waivers

All participants and/or their legal guardian if under 18 years of age, must check-in 15-30 minutes prior to their surf lesson at the designated storefront to sign their electronic waivers (e-waivers) on one of our provided iPads. All waivers are kept on file in the office and also on the cloud as a backup.

The waiver covers all programs run under Pacific Surf School and holds the CITY, its agents, officers and employees harmless and indemnifies the same from any claims relating to the participants' activities on the CITY beach which arise from or are in any manner connected with the services provided to the participants under this Agreement.

No lesson is conducted if the waiver is not signed.

9. First Aid Kit

An American Red Cross first aid kit, approved by a City of San Diego Lifeguards, is onsite at all times. Prior to the initial class, PSS will arrange with the lifeguard for an initial equipment and first aid safety inspection.

10. EMERGENCY RESPONSE PLAN FOR SURF CONCESSIONS

The following plan is the minimum level of response and readiness for our Surf Concessions during emergency situations.

Ocean Conditions

Every PSS instructor is trained to read ocean conditions to ensure that the ocean is safe to conduct class based on the skill levels of the instructor and the students. This is done throughout the day as tides change regularly.

General Rescue Procedures for Water Emergencies

1. Survey the scene.
2. The rescuer should consider his/her level of rescue skill prior to attempting a rescue.
3. Ensure proper use of rescue equipment.
4. Safely approach and determine if the victim is distressed.
5. Perform and rescue based on American Red Cross training.
6. Move the victim to safety.
7. Remove the victim from the water.
8. Perform a primary survey.
9. If an emergency exists, ensure that someone activates 911 and requests San Diego Lifeguard assistance.
10. Provide first aid until emergency medical services (EMS) arrive.
11. If other instructors and students are in the water, they should be directed to the beach until the emergency is clear. Other instructors should provide assistance as needed.



General Rescue Procedures for Land Emergencies

1. Survey the scene.
2. Approach the victim when it is safe for the rescuer.
3. Perform a primary survey.
4. If an emergency exists requiring EMS, activate the 911 system and ensure paramedics and San Diego Lifeguards are responding.
5. Provide appropriate care until EMS arrives.

Cellular Communications

At our surf sites we keep a fully charged and functioning cellular phone on the beach in a location where it can be immediately accessed in case of emergency.

Emergency Signals

Pre-designated signals will be used to communicate with instructors and other surf-camp personnel in the event emergency assistance is needed.

- WHISTLES will be immediately available to all instructors and surf camp personnel.
- One hand or any piece of equipment being waved overhead from side to side, or three short whistle blasts will indicate that an emergency exists and immediate assistance is needed.
- One hand placed on the top of the head will indicate that everything is all clear.
- Instructors and other surf camp personnel will be diligent to look for any signs and signals of distress when they are at the beach.
- Any emergency signal observed by an instructor or any surf camp personnel will cause the immediate activation of the Emergency Response Plan.

Accidents, Injuries and Incident Slips

All of our staff, including instructors are required to notify the lifeguard supervisor on duty, as soon as feasible, or any accident or injury occurring in the operation of the lesson/camp, regardless of severity. All rescues and medical aids involving surf camp students, instructors or other personnel will be documented on company incident slips. Incident slips contain names and addresses of all involved parties, statement of circumstances, date and hour of accident or injury, names and addresses of any witnesses and any other pertinent information including wave and wind condition as well as previous medical history of the participant.

PSS will immediately report to CITY any accident causing property damage or injury to persons on the Site or otherwise related to the Allowed Uses. Such report will contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.



11. Termination of Surf Camp Operations

Lifeguards reserve the right to suspend or terminate surf camp operations based on safety considerations.

12. Notice of Violation

Pacific Surf School, Inc. understands and fully agrees that keeping patrons safe while engaged in surf camps shall be its highest priority. Should San Diego Fire-Rescue Lifeguards or other official City personnel find violations or a pattern of violations of any requirement of the Concession Agreement, then a "Violation of Concession Agreement/Safety Notice" will be issued by the Fire-Rescue Department Lifeguards Division.

The CITY reserves the right to perform inspections and/or reviews with or without advance notice. These inspections and/or reviews may be for any or all aspects related to the Concession Agreement and its attachments, including, but not limited to, ensuring that Concessionaire: (a) possesses all of the requisite certificates and qualifications of its instructors; (b) properly addresses all safety issues; (c) adheres to all aspects of the concession agreement. Violation of any aspect of the Concession Agreement may result in suspension or revocation of the Agreement.

When a Concessionaire, its employee, agent, or representative is issued a "Violation of Concession Agreement/Safety Notice," the CITY shall evaluate the notice of violation for an appropriate and reasonable sanction, up to and including a suspension or revocation of the Concession Agreement.



Necessary Equipment

Pacific Surf School, INC. provides all necessary equipment required for our offered services. All equipment is frequently inspected and maintained as part of our opening and closing procedure. The equipment provided includes:

- Soft foam surfboards with leashes
- Stand up paddle boards equipped with leashes and life jackets
- Full and short wetsuits
- Booties and gloves if required
- Student rashguards with required school logo in bright color and UV protection
- Red instructor rashguards with required school logo and UV protection
- First aid kit
- Emergency cell phone
- Sunscreen



Community needs and number of clients served

Community needs

California, having declared surf as its official state sport, and San Diego being one of the most visited cities in all of Southern California, the number of people, both local resident and tourist alike wanting to learn how to surf has grown tremendously. In addition, the surf industry continues to grow at a rapid rate as does the demand for surf lessons around the world.

Pacific Surf School, INC. has proven over the last 21 years that it has the capability to fulfill these community demands by offering the highest level of service, employing local surf instructors, engaging in community relationship development all while maintaining strict safety standards and complying to all requirements from the City of San Diego.



Clients served

Pacific Surf School, INC. estimates the following number of clients for the respective sites in the next five years:

Pacific Beach - Site 7

Year	Client estimate
2019	5,700
2020	6,800
2021	8,200
2022	9,900
2023	11,800

Ocean Beach - Site 1

Year	Client estimate
2019	2,100
2020	2,600
2021	3,100
2022	3,700
2023	4,400

Mission Beach - Site 5

Year	Client estimate
2019	2,100
2020	2,600
2021	3,100
2022	3,700
2023	4,400



OPERATING PLAN

Pacific Beach - Site 6, Santa Rita St. (32° 47.23n) - Site for Expansion



OPERATING PLAN - PACIFIC BEACH - SITE 6, SANTA RITA ST. (32° 47.23N)



PACIFIC SURF SCHOOL / SURFER GIRLS

Storefront Address: 4121 Mission Blvd, San Diego, CA 92109

www.pacificsurf.com / www.alohasurfergirls.com



Description of Programs, Activities, and Services

- **Private lessons daily:**
Private lessons are 90 minutes long, consisting of 1:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.
- **Semi-private lessons:**
Semi-private lessons are 90 minutes long, consisting of 2-3:1 student to instructor ratio. Pacific Surf School provided all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.
- **Group lessons daily**
Semi-private lessons are 90 minutes long, consisting of 4-5:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.
- **Adaptive Surf Program (Program in development for Pacific Beach - Site 6)**
It will be offered by reservation only. Each surfer is assigned to at least two instructors who have been trained and certified. The session is 90 minutes long. Pacific Surf School will provide all equipment, including Adaptive Surfboard, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.
- **Weekend clinics**
Our weekend clinics geared toward the hard-working Monday to Friday customer that would love to learn how to surf and spend some time at the beach while pursuing a love for surfing. Our classes meet on Saturday and Sunday mornings at 9 AM starting out with a 90 min surf lesson followed by a complementary surfboard and wetsuit rental until 5 PM.
- **Corporate team building events**
Perfect for team building, reinventing the typical "board meeting. We have created a unique and fun approach to team building which will enhance the employee's communication and teamwork and an exciting atmosphere. The event is two hours long, consisting of a 90 min group surf lesson and lunch. Pacific Surf School provided all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.



- **Bachelor and Bachelorette parties**

A very special way to celebrate with friends and family. Fun memories are guaranteed during our 90 min group lesson, catering from groups of 5 up to 25 people, including a classic Hawaiian group photo. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.

- **Birthday parties**

Our custom birthday surf parties provide an unforgettable experience for any age. With the choice of one of our two packages, clients can choose to surf 90 min up to 2 hours. We can also provide food, certificates and photos for everyone. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.

- **5-day Surf Camp full day (summer only, kids and teens, 5 to 15 years old)**

Along with an awesome week of surfing the students participate in water safety and ocean environment educational training. Our team of instructors at surf camp San Diego will work individually with each student to make sure that they learn to surf the correct way, without creating any "bad habits". Watch yourself progress to another level of surfing by the end of the week with our proven teaching techniques and water safety instruction. On the final day of camp, we like to add some friendly competition into the mix so that the students are able to show off what they've learned. Full week campers receive a Friday pizza party, award ceremony, surf competition and a Pacific Surf School t-shirt.

9 AM to 3 PM, Monday to Friday. 4:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.

- **5-day Surf Camp half day (summer only, kids and teens, 5 to 15 years old)**

Along with an awesome week of surfing the students participate in water safety and ocean environment educational training. Our team of instructors at surf camp San Diego will work individually with each student to make sure that they learn to surf the correct way, without creating any "bad habits". Watch yourself progress to another level of surfing by the end of the week with our proven teaching techniques and water safety instruction. On the final day of camp, we like to add some friendly competition into the mix so that the students are able to show off what they've learned. Full week campers receive a Friday pizza party, award ceremony, surf competition and a Pacific Surf School t-shirt.

9 AM to 12 PM, Monday to Friday. 4:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.



- **3-day Surf Camp full day (summer only, kids and teens, 5 to 15 years old)**

Along with an awesome week of surfing the students participate in water safety and ocean environment educational training. Our team of instructors at surf camp San Diego will work individually with each student to make sure that they learn to surf the correct way, without creating any "bad habits". Watch yourself progress to another level of surfing by the end of the week with our proven teaching techniques and water safety instruction. On the final day of camp, we like to add some friendly competition into the mix so that the students are able to show off what they've learned.

9 AM to 3 PM, Monday to Wednesday. 4:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.

- **3-day Surf Camp half day (summer only, kids and teens, 5 to 15 years old)**

Along with an awesome week of surfing the students participate in water safety and ocean environment educational training. Our team of instructors at surf camp San Diego will work individually with each student to make sure that they learn to surf the correct way, without creating any "bad habits". Watch yourself progress to another level of surfing by the end of the week with our proven teaching techniques and water safety instruction. On the final day of camp, we like to add some friendly competition into the mix so that the students are able to show off what they've learned.

9 AM to 12 PM, Monday to Wednesday. 4:1 student to instructor ratio. Pacific Surf School provides all equipment, including 8-9" Foam Surfboard, Leash, Wetsuit (full or spring suit), UV protection rash guard with the school's identification and color according to the requirements.



Days and hours of operation

With our advanced booking system, students are only be allowed to choose lesson times of 9:00 AM, 10:45 AM, 12:45 PM, 2:30 PM and 4:00 PM, ensuring no lessons are performed outside the RFP permitted time frame. In addition, every holiday which operations are not permitted as per the RFP is blocked on our booking system, not allowing clients or employees to book on these days: **New Year's Day, Martin Luther King, Jr. Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.**

Surf Lessons

Operational year-round.

Monday	9:00 AM / 10:45 AM / 10:45 PM / 02:30 PM / 04:00 PM
Tuesday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Wednesday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Thursday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Friday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Saturday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM
Sunday	9:00 AM / 10:45 AM / 12:45 PM / 02:30 PM / 04:00 PM

Surf Camp

From June to September.

3-Day Half Day	Monday to Wednesday	09:00 AM to 12:00 PM
3-Day Full Day	Monday to Wednesday	09:00 AM to 03:00 PM
5-Day Half Day	Monday to Friday	09:00 AM to 12:00 PM
5-Day Full Day	Monday to Friday	09:00 AM to 03:00 PM

*** No lessons on New Year's Day, Martin Luther King, Jr. Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.**



Schedule of Daily Surf Lessons

Private Lessons, Semi-Private Lessons, Group Lessons, Weekend Clinics, Corporate team building events, Bachelor and Bachelorette Parties, Birthday Parties

Duration	Description
25 minutes	Land lesson, includes water safety procedures, surf technique, and pre-surf warm up. Simulated techniques. Instructors demonstrate surf techniques. Suit up and apply sunscreen.
5 minutes	Hand signals and whistle signals. Ensure all students follow signals and have a good understanding of all safety procedures.
60 minutes	Water instruction session begins. Includes pre-entry considerations including current and tide observation and entry plan. Students practice techniques under supervision of instructors.
Total Duration: 90 minutes	End of lesson.



Schedule of Full Day Surf Camp

Time	Description
08:45 AM	Arrival and Check-in: Students check in and are issued the required rash guard and wetsuit.
9:00 AM	Introductions are made. Daily agenda is reviewed and land lesson is given. Land lesson includes water safety procedures, surf technique, and pre-surf warm up. Group Stretch.
9:30 AM	Water instruction session begins. Includes pre-entry considerations including current and tide observation and entry plan. Hand signals and whistle signals. Ensure all students follow signals and have a good understanding. Simulated techniques. Instructors demonstrate surf techniques. Students practice techniques under supervision of instructors.
10:30 AM	Class breaks for hydration, snacks and reapply sunscreen.
11:00 AM	Beach activity, sports as soccer, frisbee, football, beach games, etc. Quick beach clean-up.
12:00 PM	Lunch, rest, hydration and reapply sunscreen. Getting ready for second session.
1:00 PM	Second session begins, students practice surf techniques under supervision of instructors.
2:30 PM	Completion of water activities, break for hydration and snacks. Take off wetsuits, help cleaning up beach, cleaning suits and getting ready to leave.
3:00PM	Class ends, parents pick up students. All students stay under supervision of instructors under the canopy in the shade until all students are picked up.



Schedule of Half Day Surf Camp

Time	Description
08:45 AM	Arrival and Check-in: Students check in and are issued the required rash guard and wetsuit.
9:00 AM	Introductions are made. Daily agenda is reviewed and land lesson is given. Land lesson includes water safety procedures, surf technique, and pre-surf warm up. Group Stretch.
9:30 AM	Water instruction session begins. Includes pre-entry considerations including current and tide observation and entry plan. Hand signals and whistle signals. Ensure all students follow signals and have a good understanding. Simulated techniques. Instructors demonstrate surf techniques. Students practice techniques under supervision of instructors.
11:00 AM	Class breaks for hydration, snacks and reapply sunscreen.
11:30 AM	Beach activity, sports as soccer, frisbee, football, beach games, etc. Quick beach clean-up.
12:00 PM	Class ends, parents pick up students. All students stay under supervision of instructors under the canopy in the shade until all students are picked up.



Schedule of Adaptive Surf

This program is still in development, this is an initial schedule of the program:

Duration	Description
25 minutes	Land talk, includes water safety procedures, surf technique. Adaptive equipment demonstration and adjustment to surfer. Simulated techniques. Instructors demonstrate surf techniques and safety procedures. Suit up and apply sunscreen.
5 minutes	Hand signals and whistle signals. Ensure all students follow signals and have a good understanding of all safety procedures.
60 minutes	Water session begins. Includes pre-entry considerations including current and tide observation and entry plan. Students practice techniques with assistance and supervision of instructors.
Total Duration: 90 minutes	End of lesson.



Number of students per class

Per the Concession Agreement, there will be a maximum of 50 students in each class, with a maximum of 25 in the water at any one time.

Ratio Surf **Camp**: 1 instructor for every 4 students.

Ratio Surf **Lessons**: 1 instructor for every 5 students.

Our advanced booking system blocks the given time frame when 25 students are booked. Example: if we have 23 students currently booked for the 9 AM time frame, and a family of 4 is trying to book a lesson at the same time, the system will not allow the booking to go through, showing the time as "sold out" and will suggest the next available times.

Fees and Charges

Private lessons	\$95.00 pp + Tax
Semi-private lessons	\$75.00 pp + Tax
Group lessons	\$65.00 pp + Tax
Weekend clinics	\$185.00 pp + Tax
Corporate team building events	\$65.00 pp and up + Tax
Bachelor and Bachelorette parties	\$65.00 pp and up + Tax
Birthday parties	\$65.00 pp and up + Tax
5-day Surf Camp full day (summer only)	\$475.00 pp + Tax
5-day Surf Camp half day (summer only)	\$285.00 pp + Tax
3-day Surf Camp full day (summer only)	\$285.00 pp + Tax
3-day Surf Camp half day (summer only)	\$215.00 pp + Tax
Adaptive Surf	\$185.00 pp + Tax



Summary of the material covered in each class

At the start of each class, Pacific Surf School's team of instructors educate students on the fundamentals of surfing, highlighting the importance of safety along with ocean awareness and the environment. Please see below a brief summary of the topics reviewed in each one of our classes:

- Ocean awareness
- Safety/Hazards
- Lifeguard location
- Surfing Etiquette
- Beaches and Waves (beach breaks, reef breaks, point break, wave formation)
- Surfing Technique (paddling, foot position, pop-ups, balance)
- Marine Life
- Environmental awareness
- History of Surfing and Terminology
- Surfboards and its parts

For each class meeting, one interpretive program or activity is required.

These programs might include discussions on topics including marine life, coastal preservation, and water safety procedures.

Interpretive Program or Activity Details

- Ocean awareness: Our instructors explain to students how enter and exit the water in a safe location, to never turn your back to the ocean, importance of using a reef safe sunblock.
- Safety/Hazards: Exiting the surfboard correctly, stay very clear and how to identify rip currents, sand bars and holes, rocks and reefs, identifying hazardous ocean conditions.
- Lifeguard location: All of our instructors point out to students regarding the importance of knowing the Lifeguard location as well as how to identify when the Lifeguards are on and off duty.
- Surfing Etiquette: Our instructors describe to students the importance of surfing ethicacy to ensure the sport remains safe, we also explain about right of the way, not to dropping in, not to ditch your board, always reminding that the ocean is a dangerous place and requires proper thought to safety at all times.
- Beaches and Waves: Without waves you simply cannot surf, that being said waves are the most important part of surfing. We go through how waves are formed, how waves break 3-5 in a set and how often times the third wave in a set will be the largest, since our site locations are set on beach breaks we briefly touch upon different types of breaks as reef breaks, point breaks, etc.



- **Surfing Technique:** Different ways to get over the waves as push up over a wave, duck dive and turn turtle, keeping legs together and body tight, all of our instructors give the students a reference point for their toes. We go through balance explaining the stringer of the board and how it functions to balance.
- **Marine Life:** Stingray shuffle and a brief discussion on marine biology.
- **Environmental awareness:** Always picking up your trash, the importance of using a reef safe sunblock, water quality and conservation. Our instructors even encourage students to pick up at least one piece of trash before leaving the beach.
- **History of Surfing/Terminology:** A excerpt about the beginning of surf, its common terms, expressions and language. As well as lifestyle.
- **Surfboards and its parts:** Although we use foam boards for our students, we briefly touch upon different kinds of boards, their characteristics and uses.



Lifeguard Services Safety Requirements

1. Maximum number of participants/boards on the beach and in the water

A maximum of 50 students per Site will be on the beach at any one time. Of those fifty students, a maximum of twenty-five students per group will be in the water at any one time.

2. Identifying Markers

All PSS instructors will wear red rashguards with Pacific Surf School's name and logo on the front and "Surf Instructor" on the back. PSS students will wear a bright blue rashguard with Pacific Surf School's name and logo on the front and back. Both students and instructors will wear their rashguards at all times while in the water. In each and every PSS site, our instructors and students wear the exact same colors as mentioned above.

The CITY-issued sign with Pacific Surf School's name is clearly posted at each Site, whenever classes are in progress.



3. Student to instructor ratios

For every surf lesson there is a 1:5 instructor to student ratio. For every surf camp session our maximum instructor to student ratio is 1:4. At no time will PSS exceed the maximum instructor to student ratio. Anytime students are in the water at least one American Red Cross certified instructor will be present and supervising the class.

4. Beach Access

PSS will not exclude the public from any Site. Beach access will be kept clear at all times. Surfboards will be stacked next to our canopy in neat piles with no more than 5 boards, not obstructing beach access.



5. Concession Site/Location

Pacific Surf School operates from our assigned Sites on the beach sand only. In-water operations are conducted in the immediate surfing area in front of our beach sites. Based on safety considerations, Lifeguards may approve an alternate water operations site. PSS' children and teen campers meet at PSS's Storefront where they are escorted to the designated site. In regards to the SUP launch at La Jolla sites this does not apply to PSS as we don't operate in La Jolla.

6. Equipment

PSS provides equipment to all students, including a soft foam surfboard with a leash; hardboards have a nose guard and tail guard protection. All SUPs have leashes.

7. Minimum Requirements for Instructors

The minimum age for an instructor for Pacific Surf School, Inc. is eighteen (18) years of age.

Every PSS instructor possesses the following required certifications:

Surf camp instructors must possess any one (1) of the following certifications:

- a. American Red Cross, "Lifeguarding"
- b. Miramar College, "Introduction to Open Water Lifeguard"
- c. Water Safety Specialist, "Surfing Instructor Safety Training"
- d. Other certification whose curriculum is approved by the Lifeguard Division.

Additionally, surf camp instructors must possess any one (1) of the following CPR certifications:

- a. American Red Cross
- b. American Heart Association
- c. Any other nationally recognized basic CPR training with certification

Finally, surf camp instructors must possess any one (1) of the following certifications:

- a. Emergency Medical Technician (EMT)
- b. American Red Cross Emergency Response
- c. American Red Cross First Aid Basic
- d. Any other nationally recognized first aid course with certification.

PSS only hires experienced surfers, with strong knowledge of the ocean, great personality skills, good attitude and great leadership ability. In addition to being hired every instructor must shadow five lessons with a lead surf instructor and then complete a 8 hours (1 full day) of paid training. PSS also runs a background check by the Department of Justice for every employee.



8. Waivers

All participants and/or their legal guardian if under 18 years of age, must check-in 15-30 minutes prior to their surf lesson at the designated storefront to sign their electronic waivers (e-waivers) on one of our provided iPads. All waivers are kept on file in the office and also on the cloud as a backup.

The waiver covers all programs run under Pacific Surf School and holds the CITY, its agents, officers and employees harmless and indemnifies the same from any claims relating to the participants' activities on the CITY beach which arise from or are in any manner connected with the services provided to the participants under this Agreement.

No lesson is conducted if the waiver is not signed.

9. First Aid Kit

An American Red Cross first aid kit, approved by a City of San Diego Lifeguards, is onsite at all times. Prior to the initial class, PSS will arrange with the lifeguard for an initial equipment and first aid safety inspection.

10. EMERGENCY RESPONSE PLAN FOR SURF CONCESSIONS

The following plan is the minimum level of response and readiness for our Surf Concessions during emergency situations.

Ocean Conditions

Every PSS instructor is trained to read ocean conditions to ensure that the ocean is safe to conduct class based on the skill levels of the instructor and the students. This is done throughout the day as tides change regularly.

General Rescue Procedures for Water Emergencies

1. Survey the scene.
2. The rescuer should consider his/her level of rescue skill prior to attempting a rescue.
3. Ensure proper use of rescue equipment.
4. Safely approach and determine if the victim is distressed.
5. Perform and rescue based on American Red Cross training.
6. Move the victim to safety.
7. Remove the victim from the water.
8. Perform a primary survey.
9. If an emergency exists, ensure that someone activates 911 and requests San Diego Lifeguard assistance.
10. Provide first aid until emergency medical services (EMS) arrive.
11. If other instructors and students are in the water, they should be directed to the beach until the emergency is clear. Other instructors should provide assistance as needed.



General Rescue Procedures for Land Emergencies

1. Survey the scene.
2. Approach the victim when it is safe for the rescuer.
3. Perform a primary survey.
4. If an emergency exists requiring EMS, activate the 911 system and ensure paramedics and San Diego Lifeguards are responding.
5. Provide appropriate care until EMS arrives.

Cellular Communications

At our surf sites we keep a fully charged and functioning cellular phone on the beach in a location where it can be immediately accessed in case of emergency.

Emergency Signals

Pre-designated signals will be used to communicate with instructors and other surf-camp personnel in the event emergency assistance is needed.

- WHISTLES will be immediately available to all instructors and surf camp personnel.
- One hand or any piece of equipment being waved overhead from side to side, or three short whistle blasts will indicate that an emergency exists and immediate assistance is needed.
- One hand placed on the top of the head will indicate that everything is all clear.
- Instructors and other surf camp personnel will be diligent to look for any signs and signals of distress when they are at the beach.
- Any emergency signal observed by an instructor or any surf camp personnel will cause the immediate activation of the Emergency Response Plan.

Accidents, Injuries and Incident Slips

All of our staff, including instructors are required to notify the lifeguard supervisor on duty, as soon as feasible, or any accident or injury occurring in the operation of the lesson/camp, regardless of severity. All rescues and medical aids involving surf camp students, instructors or other personnel will be documented on company incident slips. Incident slips contain names and addresses of all involved parties, statement of circumstances, date and hour of accident or injury, names and addresses of any witnesses and any other pertinent information including wave and wind condition as well as previous medical history of the participant.

PSS will immediately report to CITY any accident causing property damage or injury to persons on the Site or otherwise related to the Allowed Uses. Such report will contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.



11. Termination of Surf Camp Operations

Lifeguards reserve the right to suspend or terminate surf camp operations based on safety considerations.

12. Notice of Violation

Pacific Surf School, Inc. understands and fully agrees that keeping patrons safe while engaged in surf camps shall be its highest priority. Should San Diego Fire-Rescue Lifeguards or other official City personnel find violations or a pattern of violations of any requirement of the Concession Agreement, then a "Violation of Concession Agreement/Safety Notice" will be issued by the Fire-Rescue Department Lifeguards Division.

The CITY reserves the right to perform inspections and/or reviews with or without advance notice. These inspections and/or reviews may be for any or all aspects related to the Concession Agreement and its attachments, including, but not limited to, ensuring that Concessionaire: (a) possesses all of the requisite certificates and qualifications of its instructors; (b) properly addresses all safety issues; (c) adheres to all aspects of the concession agreement. Violation of any aspect of the Concession Agreement may result in suspension or revocation of the Agreement.

When a Concessionaire, its employee, agent, or representative is issued a "Violation of Concession Agreement/Safety Notice," the CITY shall evaluate the notice of violation for an appropriate and reasonable sanction, up to and including a suspension or revocation of the Concession Agreement.



Necessary Equipment

Pacific Surf School, INC. provides all necessary equipment required for our offered services. All equipment is frequently inspected and maintained as part of our opening and closing procedure. The equipment provided includes:

- Soft foam surfboards with leashes
- Stand up paddle boards equipped with leashes and life jackets
- Full and short wetsuits
- Booties and gloves if required
- Student rashguards with required school logo in bright color and UV protection
- Red instructor rashguards with required school logo and UV protection
- First aid kit
- Emergency cell phone
- Sunscreen



Community needs and number of clients served

Community needs

California, having declared surf as its official state sport, and San Diego being one of the most visited cities in all of Southern California, the number of people, both local resident and tourist alike wanting to learn how to surf has grown tremendously. In addition, the surf industry continues to grow at a rapid rate as does the demand for surf lessons around the world.

Pacific Surf School, INC. has proven over the last 21 years that it has the capability to fulfill these community demands by offering the highest level of service, employing local surf instructors, engaging in community relationship development all while maintaining strict safety standards and complying to all requirements from the City of San Diego.



Clients served

Pacific Surf School, INC. estimate for **Pacific Beach - Site 6** the following number of clients in the next five years:

Year	Client estimate
2019	3,600
2020	4,300
2021	5,100
2022	6,200
2023	7,400



EXHIBIT C: LIFEGUARD SERVICES SAFETY REQUIREMENTS

The following requirements are subject to revision at any time by the CITY:

1. **Maximum number of participants/boards on the beach and in the water**
A maximum of 50 students per Site may be on the beach at any one time. Of those fifty students, a maximum of twenty-five students per group may be in the water at any one time.
2. **Identifying Markers**
Instructors must wear red rashguards with CONCESSIONAIRE's name. Students must wear a color specific rashguard with CONCESSIONAIRE's name. Both student and instructor rashguards are to be worn at all times while in the water. The CITY-issued sign with the CONCESSIONAIRE's name must be clearly posted at each Site, whenever classes are in progress.
3. **Student to instructor ratios.**
For every five students on the beach or in the water, one instructor must be present. Anytime students are in the water at least one American Red Cross certified instructor must be present and supervising the class.
4. **Beach Access**
CONCESSIONAIRE shall not exclude the public from any Site. Beach access must be kept clear at all times. Surfboards must be kept in a position that does not obstruct beach access.
5. **Concession Site/Location**
Surf CONCESSIONAIRE'S must operate from their assigned Site on the beach sand only. In-water operations should be conducted in the immediate surfing area in front of CONCESSIONAIRE'S beach site. Based on safety considerations, Lifeguards may approve an alternate water operations site. CONCESSIONAIREs may meet and escort participants from the parks facilities, parking lots and/or nearest street but may not set up any concession operations in the park.

When standup paddleboards (SUP) are not able to be launched in front of the CONCESSIONAIRE'S beach site at La Jolla Shores because of large surf, approval may be granted by the lifeguards to enter and exit from the Boat Launch. In these situations, the SUP will be considered a vessel and must have proper carriage requirements, including personal floatation device (PFD). Furthermore, the SUP's must remain outside the surf at all times.
6. **Equipment**
All CONCESSIONAIREs that provide equipment to students must provide a soft foam surfboard with a leash; hardboards must have nose guard and tail guard protection.

SUP's are required to have a leash.

7. Minimum Requirements for Instructors

The minimum age for an instructor is eighteen (18) years of age.

Surf camp instructors must possess any one (1) of the following certifications:

- a. American Red Cross, "Lifeguarding"
- b. Miramar College, "Introduction to Open Water Lifeguard"
- c. Water Safety Specialist, "Surfing Instructor Safety Training"
- d. Other certification whose curriculum is approved by the Lifeguard Division.

Additionally, surf camp instructors must possess any one (1) of the following CPR certifications:

- a. American Red Cross
- b. American Heart Association
- c. Any other nationally recognized basic CPR training with certification

Finally, surf camp instructors must possess any one (1) of the following certifications:

- a. Emergency Medical Technician (EMT)
- b. American Red Cross Emergency Response
- c. American Red Cross First Aid Basic
- d. Any other nationally recognized first aid course with certification.

8. Waivers

The CONCESSIONAIRE must have on file a signed waiver from each participant, or their legal guardian if under 18 years of age, which holds the CITY, its agents, officers and employees harmless and indemnifies the same from any claims relating to the participants' activities on the CITY beach which arise from or are in any manner connected with the services provided to the participants under this Agreement.

9. First Aid Kit

An American Red Cross first aid kit, approved by a City of San Diego Lifeguard, must be onsite at all times. Prior to the initial class, the operator must arrange with the lifeguard for an initial equipment and first aid safety inspection.

10. EMERGENCY RESPONSE PLAN FOR SURF CONCESSIONS

The following plan is the minimum level of response and readiness for Surf Concessions during emergency situations. CONCESSIONAIRES are required to

read the plan and cover all aspects of the plan with each employee working on the beach under this Concession Agreement.

Ocean Conditions

Ensure that the ocean conditions are safe to conduct class based on the skill levels of the instructor and the students.

General Rescue Procedures for Water Emergencies

1. Survey the scene.
2. The rescuer should consider his/her level of rescue skill prior to attempting a rescue.
3. Ensure proper use of rescue equipment.
4. Safely approach and determine if the victim is distressed.
5. Perform and rescue based on American Red Cross training.
6. Move the victim to safety.
7. Remove the victim from the water.
8. Perform a primary survey.
9. If an emergency exists, ensure that someone activates 911 and requests San Diego Lifeguard assistance.
10. Provide first aid until emergency medical services (EMS) arrive.
11. If other instructors and students are in the water, they should be directed to the beach until the emergency is clear. Other instructors should provide assistance as needed.

General Rescue Procedures for Land Emergencies

1. Survey the scene.
2. Approach the victim when it is safe for the rescuer.
3. Perform a primary survey.
4. If an emergency exists requiring EMS, activate the 911 system and ensure paramedics and San Diego Lifeguards are responding.
5. Provide appropriate care until EMS arrives.

Cellular Communications

All surf concessions shall keep a fully charged and functioning cellular phone on the beach in a location where it can be immediately accessed in case of emergency.

Emergency Signals

Pre-designated signals will be used to communicate with instructors and other surf-camp personnel in the event emergency assistance is needed. **WHISTLES** will be immediately available to all instructors and surf camp personnel. One hand or any piece of equipment being waved overhead from side to side, or three short whistle blasts will indicate that an emergency exists and immediate assistance is needed. One hand placed on the top of the head will indicate that everything is all clear. Instructors and other surf camp personnel will be diligent to look for any signs and signals of distress when they are at the beach.

Any emergency signal observed by an instructor or any surf camp personnel will cause the immediate activation of the emergency response plan.

Accidents, Injuries and Incident Slips

CONCESSIONAIRE shall notify the lifeguard supervisor on duty, as soon as feasible, of any accident or injury occurring in the operation of the Concession, regardless of severity. All rescues and medical aids involving surf camp students, instructors or other personnel will be documented on company incident slips.

11. Termination of Surf Camp Operations

Lifeguards reserve the right to suspend or terminate surf camp operations based on safety considerations

12. Notice of Violation

Concessionaire understands and fully agrees that keeping patrons safe while engaged in surf camps shall be its highest priority. Should San Diego Fire-Rescue Lifeguards or other official City personnel find violations or a pattern of violations of any requirement of the Concession Agreement, then a "Violation of Concession Agreement/Safety Notice" will be issued by the Fire-Rescue Department Lifeguards Division.

The CITY reserves the right to perform inspections and/or reviews with or without advance notice. These inspections and/or reviews may be for any or all aspects related to the Concession Agreement and its attachments, including, but not limited to, ensuring that Concessionaire: (a) possesses all of the requisite certificates and qualifications of its instructors; (b) properly addresses all safety issues; (c) adheres to all aspects of the concession agreement. Violation of any aspect of the Concession Agreement may result in suspension or revocation of the Agreement.

When a Concessionaire, its employee, agent, or representative is issued a "Violation of Concession Agreement/Safety Notice," the CITY shall evaluate the notice of violation for an appropriate and reasonable sanction, up to and including a suspension or revocation of the Concession Agreement.