

CITY OF SAN DIEGO CONCESSION PERMIT

THIS CITY OF SAN DIEGO CONCESSION PERMIT ("Permit") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and SAN DIEGO BIKE & KAYAK TOURS, Inc. ("CONCESSIONAIRE"), to be effective upon execution by the parties and approval by the San Diego City Attorney (the "Effective Date"), as follows:

1. Incorporated Documents. This Permit is created pursuant to the City of San Diego REQUEST FOR PROPOSAL ("RFP") for Kayak Concessions issued by the Real Estate Assets Department October, 14, 2008, and CONCESSIONAIRE'S proposal in response to the RFP, dated November 17, 2008. Attached and incorporated herein are the following documents: Exhibit A, Site Map, Exhibit B, Tour Schedule, and Exhibit C, Kayak Concession Requirements. The Operating Plan submitted by CONCESSIONAIRE as part of its proposal is also attached hereto as Exhibit D and incorporated herein.
2. Right to Enter. Subject to the terms and conditions of this Permit, CITY hereby grants permission to CONCESSIONAIRE, its employees, agents and contractors to operate a kayak concession ("Concession") as defined in section 3 below on City beach known as La Jolla Shores, in the boat launch zone and on the beach which extends 185 feet north from the southern end of the westerly extension of Avenida De La Playa, as more specifically described on the attached Exhibit A ("Site").
3. Use of Site. This Permit is granted to CONCESSIONAIRE for the sole purpose of allowing CONCESSIONAIRE to operate a Kayak concession (Conducting kayak tours as well as delivering and removing rented kayaks) serving the general public under the terms and conditions of this Permit. There shall be no commercial use of Laureate or Kellogg Parks by the concessionaire. No solicitation or marketing is permitted on City beaches. Renting or selling of beach equipment or other merchandise is not allowed under this Permit. Any use other than the Concession use described herein will be cause for immediate termination of this Permit.
4. Maximum Days and Hours of Operation. No kayak tour/rental operations prior to 8 a.m. daily (June 13 – Sept. 1) and no operations prior to 9 a.m. (Sept. 2- June 12). All kayaks must be removed from the designated storage area by 8:30 p.m. All kayak tours are to be completed and out of the water fifteen (15) minutes before sunset daily. All operations are permitted seven days a week with the following exceptions:
 - a. Under no circumstances are operations permitted on the 4th of July holiday.

- b. Special Events. Unless otherwise authorized by the City Manager, CONCESSIONAIRE shall have no rights within certain areas of the Concession Site or designated portions thereof during days in which "Special Events" as defined in San Diego Municipal Code section 22.4003 are scheduled by CITY in this area. CITY shall give CONCESSIONAIRE advance written notice of any such "Special Events".
5. Competent Management. Throughout the term of this Permit, CONCESSIONAIRE shall provide competent management of the Site for the permitted uses to the satisfaction of the City Manager. CONCESSIONAIRE covenants to operate the Concession for the above-specified purposes and diligently conduct the operations to produce a reasonable and substantial gross income.
6. Term. The term of this Permit shall be one (1) year commencing on April 1, 2009 ("Commencement Date"). "Permit Year" as used in this Permit shall mean the twelve-month period commencing on the Commencement Date and any subsequent twelve-month extension exercised in accordance with Section 7, Extension of Term.
7. Extension of Term. Provided that the CONCESSIONAIRE is not in default of this Permit, the term of this Permit may be extended for two (2) one-year terms at the consideration specified in Section 12 and subject to all original agreements and conditions. Concessionaire must notify CITY in writing ninety (90) days prior to the expiration of the current term of its intention to extend. All extensions will be at the sole discretion of the CITY. Any extension of the term of the Permit beyond thirty-six (36) months shall result in a month-to-month license.
8. Termination. This Permit may be terminated at any time by either party upon ninety (90) days prior written notice to the other party.
9. Revocable License. This Permit is not a lease. It is a license to use CITY-owned property, and may be revoked by CITY, in its sole discretion. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by CONCESSIONAIRE as a result of such termination of this Permit. CONCESSIONAIRE expressly waives any claim for expense or loss which CONCESSIONAIRE might incur as a result of CITY'S termination of this Permit.
10. Special Provisions
 - a. Operating Plan. The Operating Plan(s) for June 2009 through May 2010 submitted with the CONCESSIONAIRE'S response to the CITY'S Request for Proposal, shall be revised by CONCESSIONAIRE, if required by CITY to meet CITY'S approval, and the final CITY approved Plan(s) shall be incorporated into this Permit as Exhibit D. Beginning April 1, 2010, and for every 12 months thereafter, the CONCESSIONAIRE shall

provide the CITY with an Operating Plan for the coming year for the CITY'S approval. All Operating Plans submitted to the CITY should be consistent with the format and content of the Plans included as Exhibit D. CITY shall have the right to approve or disapprove the proposed plan. Once approved, CONCESSIONAIRE shall not make any changes to the Plan without prior written approval of CITY.

- b. Operations. The CITY reserves the right to make changes at any time to the tour schedule and/or the number of individual kayak rentals permitted based on operational and safety considerations. **At all times, the CONCESSIONAIRE shall ensure that all permitted operations comply with the Kayak Concession Requirements incorporated herein as Exhibit C.**
- c. Standard of Employees. CONCESSIONAIRE and its employees shall at all times conduct themselves and the operations of the Concession in a creditable manner. CONCESSIONAIRE shall thoroughly train its employees in their duties and shall regularly monitor them to ensure that they behave in a courteous manner, do not disturb the quiet enjoyment of other beach users, and otherwise comply with all of the Kayak Concession Requirements in Exhibit C of this Permit.
- d. Exclusiveness of Permit and Unauthorized Vending. CITY, by granting this Permit to CONCESSIONAIRE, makes no warranty that the Site shall be free of unauthorized vending or that any specific level of police or lifeguard enforcement against such activities shall be maintained.
- e. Concession Site. CONCESSIONAIRE shall erect no improvements on the Site. The Site must be maintained so as to present a neat and attractive appearance to the satisfaction of the CITY. Any items or improvements brought on the Site by the CONCESSIONAIRE must be approved in writing by CITY and shall not remain on location after permitted hours of operation, unless prior written approval of CITY is obtained.
- f. Improvements. Upon expiration or termination of this Permit, any and all improvements, trade fixtures, structures, and installations or additions to the Site now existing or constructed on the Site by CONCESSIONAIRE shall be deemed to be part of the Sites and shall become CITY'S property free of all liens and claims. All personal property remaining on the Sites after expiration or termination shall also become the property of CITY.
- g. Maintenance of Site. CONCESSIONAIRE agrees not to commit or allow to be committed any waste or injury or any public or private nuisance, to keep the Site clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in or about said spaces to the satisfaction of

CITY and at CONCESSIONAIRE'S sole cost. Site must be cleaned up nightly by CONCESSIONAIRE or more often, as required.

11. Fees.

- a. Percentage Fees. Percentage fees will be calculated on a calendar month basis and will consist of eight percent (8.00%) of the gross income resulting from Kayak tours permitted under this Permit. The City Manager, in his 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, Use of Site, as may be approved in writing by the City Manager prior to the commencement of any additional service or operation. Provided however, any activity conducted on the Site without the prior written approval of the City Manager shall be subject to the requirements of Section 12.f., Unauthorized Use Charge.
- b. Minimum Fee. The annual Minimum Fee established for the first year following the effective date of this Permit is Six Thousand Dollars (\$6,000.00), or Five Hundred Dollars (\$500.00) on a monthly installment basis.

If the Minimum Fee is greater than the percentage fee on a calendar month basis, one-twelfth (1/12) of the Minimum Fee is required to be paid for that month. Minimum Fees are to be paid in monthly installments on or before the day of the calendar month when percentage rent is due pursuant to Section 12.k., Time and Place of Payment. In the event that the combined total percentage fee payments and monthly installments of the Minimum Fee during any Permit Year equal or exceed the required Minimum Fee for that year, for the balance of that year, CONCESSIONAIRE shall discontinue paying monthly installments of the Minimum Fee until the beginning of the next Permit Year. If in any Permit Year, Minimum Fees paid plus Percentage Fees paid exceed the annual Minimum Fee and also exceed the fee which would have been paid if the Percentage Fee had been paid on total gross income, the excess over the total fee owed shall be credited against the next payable fee as it becomes due. It is the intent of this provision that CONCESSIONAIRE shall pay monthly installments of the annual Minimum Fee as a guarantee against the Percentage Fee requirement and that the greater of the two requirements, minimum or percentage, whichever occurs throughout the term, shall prevail on an annual basis.

- c. Minimum Fee Adjustment. Effective at the beginning of the first day of the 13th and 25th month of this Permit, the annual Minimum Fee shall be eighty percent (80.00%) of the annual average of actual fees paid in the first Permit Year plus any option terms exercised under this Permit. The annual average shall then be divided by twelve (12) to establish the new

monthly Minimum Fee. It is recognized that the adjustments shall be calculated by the CITY upon completion of payments due for the preceding year in order to determine the amount of the Minimum Fee for the option period. Until such calculations are completed, CONCESSIONAIRE shall continue paying monthly Minimum Fees at the prior rate. Any additional fees determined by the adjustment to be due for the months previously paid at the prior rate shall be paid to the CITY within thirty (30) days following written notice. In no event shall the Minimum Fee Adjustment result in a decrease in the Minimum Fee requirement in effect immediately prior to the adjustment date.

- d. Annual Percentage Adjustment to Minimum Fee. In the event that only the minimum fee is paid, every twelve (12) months, the Minimum Fee shall increase to one-hundred five (105.00%) of the previous year's Minimum Fee.
- e. Delinquent Concession Fee. If CONCESSIONAIRE fails to pay any concession fees when due, CONCESSIONAIRE will pay, in addition to the unpaid concession fees, a fee of \$25.00. If the fees are still unpaid at the end of the fifteen (15) days, CONCESSIONAIRE shall pay a fee of \$50.00, which is mutually agreed by the parties to this Permit to be appropriate to compensate the CITY for loss resulting from concession fee delinquency, including lost interest opportunities, legal costs, and the cost of servicing the delinquent account.
- f. Gross Income. "Gross Income" or "Gross Receipts", as used in this Permit shall include all income resulting from the Concession from whatever source derived whether received or to become due; provided, however, that Gross Income shall not include federal, state, or municipal taxes collected from the consumer (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. Possessory interest taxes or other property taxes shall not be deducted by CONCESSIONAIRE in computing Gross Income. Gross Income shall not include refund of deposits. The amount of taxes and refunds shall be clearly shown on the books and records of CONCESSIONAIRE. The percentage concession fees shall be calculated and paid by CONCESSIONAIRE on the basis of Gross Income whether the income is received by CONCESSIONAIRE or by any permittee or licensee, or their agents, and all Gross Income received by any permittee, licensee, or other party as a result of occupancy or operation of the Site(s) shall be regarded as Gross Income of CONCESSIONAIRE for the purpose of calculating the percentage concession fees required to be paid by CONCESSIONAIRE to CITY, except as may be otherwise specified by or pursuant to this Permit.

g. Payment Procedure.

On or before the last day of the calendar month following the calendar month in which the gross income subject to fees was earned, Concessionaire shall provide City with a correct income statement for the Site operated by Concessionaire together with a payment of fees on all applicable gross receipts in a form selected by City. The statement will be signed by Concessionaire or its authorized agent attesting to the accuracy of the statement. Each statement will include:

- i. Total gross receipts for the subject month itemized as to business categories for which separate Percentage Fees are established.
- ii. The Percentage Fee due City computed and totaled.
- iii. The accumulated total of all fees previously paid for the current year.
- iv. Payments in the greater of the two following amounts:
One-twelfth of the annual Minimum Fee or the total Percentage Fee due City computed as described in this section.

h. Inspection of Records.

- i. Records. CONCESSIONAIRE shall, at all times during the Permit 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(s). The records shall 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 income. 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 shall be read and recorded at the beginning and end of each business day. In the event of admission charges or concession rents, CONCESSIONAIRE shall issue serially numbered tickets for such admission or concession fees and shall 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 First Permit Year, CONCESSIONAIRE will, at its expense, submit to CITY a statement in which the total gross receipts and the corresponding amounts of concession percentage fees paid CITY for the year are classified according to the categories of business established for any percentage concession fees and for any other business conducted on or from the Site. The statement shall be signed by CONCESSIONAIRE and Financial Representative of CONCESSIONAIRE attesting to the accuracy thereof, which shall be legally binding upon CONCESSIONAIRE.
- iii. Right to Inspect. All CONCESSIONAIRE'S books of account, records, and supporting documentation, as described under Section 12.i (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(s). The CITY, at its discretion, shall have the right to inspect and audit the business of CONCESSIONAIRE, its agents, permittees, and licensees operating on, and in connection with, the Site(s) as necessary and appropriate for CITY to determine the amounts of concession fees due CITY in compliance with the requirements of this Permit. At CITY'S request, CONCESSIONAIRE shall 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 Permit 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):

The audit(s) reveal an underpayment of more than five percent (5.00%) or more than \$10,000.00, which ever is

less, between the concession fees due as reported and paid by CONCESSIONAIRE, pursuant to this Permit and concession fees determined by the audit(s).

CONCESSIONAIRE has failed to maintain complete and true books, records, accounts, and supporting documents in strict accordance with this section.

Any underpayment of concession fees less than five percent (5.00%) revealed by the audit may be paid within thirty (30) days written notice from the CITY without penalty. In lieu of late payment charges as provided herein, if an audit performed pursuant to the terms of this Permit reveals that CONCESSIONAIRE has underpaid concession fees by more than 5%, then CONCESSIONAIRE shall pay, in addition to the underpaid fees, an audited-deficiency charge of ten percent (10%) of the underpaid fees, plus interest at the rate of ten percent per annum on the underpaid fees until paid. CITY will credit any overpayment against incoming concession fees. Any overpayment determined after the end of this Permit will be refunded by CITY within thirty (30) days of confirmation by the City Manager of the audit(s) findings.

- i. Default. CONCESSIONAIRE'S failure to keep complete and accurate records by means of double-entry bookkeeping and make them available for CITY inspection is, like all other failures to comply with covenants of this Permit, a breach of this Permit and 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 Income subject to percentage fees was earned. Checks shall be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 122289, San Diego, California 92112-4165, 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 shall be deemed paid upon the date such payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall 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 shall deliver to CITY with the executed copies of this Permit, a good faith deposit in the amount of

two thousand five hundred dollars (\$2,500.00). All or any portion of the principal sum shall be available unconditionally to CITY for payment of delinquent concession fees, for correcting any default or breach of this Permit 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 Permit. If at the end of the term of this Permit, CONCESSIONAIRE has performed all of the provisions of the Permit, the deposit or any remaining balance shall be returned to the CONCESSIONAIRE without interest. The security deposit may be increased by CITY proportionate to any increase in Minimum Fees. CONCESSIONAIRE shall maintain the security deposit throughout the Term. **Notwithstanding any other provision of this Permit, if CONCESSIONAIRE fails or refuses to deposit or maintain a security deposit as required by this Permit, CITY may terminate this Permit immediately upon such breach. Upon such termination, CONCESSIONAIRE shall 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 10 days prior written notice, CONCESSIONAIRE shall reimburse the security deposit to the full required amount.
 - ii. Increase. Upon thirty (30) days prior written notice by CITY, CONCESSIONAIRE shall deliver to CITY additional funds as CITY may, in its sole determination, require to adequately secure CONCESSIONAIRE'S obligations under this Permit.
 - iii. Return. Provided CONCESSIONAIRE is not in breach or default of this Permit, CITY shall return the security deposit, or any balance thereof, to CONCESSIONAIRE within sixty (60) days after the expiration or termination of this Permit.
12. CITY'S Consent, Discretion. Whenever required under this Permit, CITY'S consent or approval shall mean the written consent or approval of the City Manager, unless otherwise expressly provided. CITY'S discretionary acts hereunder shall be made in the City Manager's sole and absolute discretion, unless otherwise expressly provided.
13. Acceptance of Site. CONCESSIONAIRE represents and warrants that it has independently inspected the Site and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Site.

CONCESSIONAIRE agrees it is relying solely on its independent inspection, tests, investigations, and observations in entering into this Permit. CONCESSIONAIRE further acknowledges that the Site is in the condition called for by this Permit, that CITY has performed all work, if any, related to the Sites and required by this Permit, and that CONCESSIONAIRE shall hold CITY harmless for any defects, whether apparent or latent, in the Site, including without limitation the presence of any hazardous substances.

14. Maintenance of the Site. CONCESSIONAIRE shall, 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.
15. Standard of Conduct. CONCESSIONAIRE and its employees shall at all times conduct themselves and the operations on the Site in a creditable manner.
16. Inspection. CITY may, at all times, enter and inspect the Site.
17. Insurance. On or before the Effective Date, CONCESSIONAIRE shall deliver to CITY a current certificate of insurance for:
 - a. Commercial General Liability insurance providing coverage for bodily injury, including death, personal injury, and property damage with limits of at least One Million Dollars (\$1,000,000) per occurrence, subject to an annual aggregate of Two Million Dollars (\$2,000,000).
 - b. CONCESSIONAIRE must maintain current workers compensation coverage which meets statutory requirements for all employees. One million (1,000,000) dollars of employers liability coverage is also required.
 - c. CONCESSIONAIRE must maintain a (marine) protection and indemnity policy, with limits of not less than one million (1,000,000) dollars UNLESS proof is submitted that CONCESSIONAIRE's kayak operations are under the commercial general liability policy. A certified copy of the CGL policy will be sufficient to meet this requirement.
 - i. Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named as additional insureds in all policies.
 - ii. Primary & Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY. The policies shall be kept in force for the duration

of the Term and any extended use. The certificate(s) of insurance shall be filed with CITY'S Real Estate Assets Department upon execution of this Permit.

- iii. Qualified Insurer(s). All insurance required by the terms of this Permit must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to CITY. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet CITY requirements.
- iv. 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.
- v. Continuity of Coverage. All policies shall be in effect on or before the first day of the Term of this Permit, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the Sites, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. At least thirty (30) days prior to the expiration of each insurance policy, CONCESSIONAIRE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit.
- vi. Modification. To assure protection from and against the kind and extent of risk existing on the Site, CITY, at its discretion, may require the revision of amounts and coverages at any time during the Term by giving CONCESSIONAIRE thirty (30) days prior written notice. CONCESSIONAIRE shall also obtain any additional insurance required by CITY for new improvements, in order to meet the requirements of this Permit.
- vii. Accident Reports. PERMITTEE shall immediately report to CITY any accident causing property damage or injury to persons on the Permit Area. Such report shall 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.

viii. Failure to Comply. If CONCESSIONAIRE fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, CITY may obtain the insurance. CONCESSIONAIRE shall reimburse CITY for the premiums paid, with interest at the maximum allowable legal rate then in effect in California. CITY shall notify CONCESSIONAIRE of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. CONCESSIONAIRE shall pay such reimbursement and interest on the first (1st) day of the month following CITY'S notice. **Notwithstanding any other provision of this Permit, if CONCESSIONAIRE fails or refuses to obtain or maintain insurance as required by this Permit, or fails to provide proof of insurance, CITY may terminate this Permit immediately upon such breach. Upon such termination, CONCESSIONAIRE shall immediately cease its use of the Site and commence and diligently pursue the removal of its property from the Site.**

ix. All insurers must be licensed to conduct business in the State of California and with exception of workers compensation, be rated "A-, VI" or better by AM Best. If coverage is provided by a surplus lines carrier, it must be listed on the current LESLI list. Any and all deductibles and/or self-insured retentions must be disclosed to the City at the time proof of insurance is provided. All insurers must be acceptable to the City.

18. Indemnification. CONCESSIONAIRE shall protect, defend, indemnify, and hold CITY, its elected officials, officers, representatives, agents and employees, 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 Permit or CONCESSIONAIRE'S occupancy, use, development, or maintenance of the Sites, and all expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that CONCESSIONAIRE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election 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 shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs.

19. No Discrimination. CONCESSIONAIRE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in CONCESSIONAIRE'S use of the Sites, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
20. 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 Permit from local residents and firms as opportunities occur. CONCESSIONAIRE agrees to hire qualified local residents and firms whenever feasible.
21. Drug-free Workplace. CONCESSIONAIRE shall 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.
22. Disabled Access Compliance. CONCESSIONAIRE shall comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990

(ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities.

23. CONCESSIONAIRE'S Risk. CONCESSIONAIRE shall 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.
24. No Nuisance. CONCESSIONAIRE shall not use the Site in any manner which, in CITY'S opinion, creates a nuisance or disturbs the quiet enjoyment of persons in and to the surrounding area.
25. No Assignment. CONCESSIONAIRE shall not assign or sublicense any rights granted by this Permit or any interest in this Permit without CITY'S prior written consent, which may be unreasonably withheld or delayed in CITY'S sole and absolute discretion. Any assignment by operation of law shall automatically terminate this Permit.
26. Charter Section 225. Pursuant to San Diego City Charter Section 225, CONCESSIONAIRE and assignees shall make a full and complete disclosure of the name and identity of any and all persons directly or indirectly involved in this Permit 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 shall be a default of this Permit. Pursuant to City Charter Section 225, every person or entity that will have an interest in this Permit as an assignee must be reviewed and approved by CITY.
27. Signs. CONCESSIONAIRE shall 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 shall remove the item at its expense within 24 hours notice by CITY, or CITY may thereafter remove the item at CONCESSIONAIRE'S cost.
28. 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.

29. Encumbrances. CONCESSIONAIRE shall 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 Permit or CONCESSIONAIRE'S occupancy, use, development, or maintenance of the Sites. CONCESSIONAIRE shall 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.

30. 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 shall default in the performance or fulfillment of any covenant or condition required by this Permit to be performed or fulfilled by CONCESSIONAIRE, including any covenant or condition in CONCESSIONAIRE's Operating Plan and shall 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 shall fail to commence to cure the default(s) within said thirty (30) day period and diligently pursue cure to completion;
- ii. CONCESSIONAIRE shall voluntarily file or have involuntarily filed against it any petition under bankruptcy or insolvency act or law; or
- iii. CONCESSIONAIRE shall 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 Permit and all rights of CONCESSIONAIRE and of all persons claiming rights through CONCESSIONAIRE 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 shall not terminate this Permit 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 Permit 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 shall default in the performance or fulfillment of any covenant or condition required by this Permit 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 Exhibit C that, in the CITY's sole discretion, impinge on 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 Permit.
 - c. Abandonment by CONCESSIONAIRE. In the case that CONCESSIONAIRE breaches this Permit and abandons the Site, this Permit shall continue in full force and effect for so long as CITY does not terminate this Permit, and CITY may enforce all its rights and remedies under this Permit, 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 Permit.
 - ii. The appointment of a receiver upon initiative of CITY to protect CITY'S interest under this Permit.
31. Damages. Damages which CITY may recover in the event of default under this Permit include the worth, at the time of the award, of the amount by which the unpaid concession fee for the balance of the term after the date of award or for any shorter period of time specified in this Permit exceeds the amount of concession fee loss for the same period that the CONCESSIONAIRE proved could be reasonably avoided. The remedies provided by this section are not exclusive and shall be cumulative to all other rights and remedies possessed by CITY, and nothing contained herein shall be construed so as to defeat any other rights or remedies possessed by CITY, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which CITY may be entitled.

32. Compliance with Laws. CONCESSIONAIRE shall, 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.

33. Taxes. CONCESSIONAIRE shall 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 Permit 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 shall pay all such possessory interest taxes. CONCESSIONAIRE'S payment for taxes, fees, and assessments shall not reduce any payment due CITY under this Permit.

34. Water Quality Assurances.

The CITY and CONCESSIONAIRE are committed to the implementation of control (best management practices, or BMPs) to manage activities on the Premises in a manner which aids in the protection of the City of San Diego's precious water resources. It is the LESSEE'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, LESSEE shall, at 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 the LESSEE's responsibility to prevent pollutant discharges to the storm drain system. Therefore, the LESSEE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.

35. Hazardous Substances. CONCESSIONAIRE shall not allow the installation or release of hazardous substances in, on, under, or from the Site. CONCESSIONAIRE and CONCESSIONAIRE'S agents and contractors shall not store, utilize, or sell any hazardous substance on the Site without CITY'S prior written consent. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State of California's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated into this Permit.

- a. Remediation. If any release of a hazardous substance occurs, CONCESSIONAIRE shall pay all costs of remediation and removal of the hazardous substance in accordance with all applicable laws and rules and regulations of governmental authorities.
- b. Indemnity. CONCESSIONAIRE shall 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, or maintenance of the Sites, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.
- c. Notice of Release. If CONCESSIONAIRE knows or has reasonable cause to believe that any hazardous substance has been released on or beneath the Site, CONCESSIONAIRE shall give written notice to CITY within three (3) days of receipt of the knowledge or cause for belief. If CONCESSIONAIRE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, CONCESSIONAIRE shall notify CITY immediately upon receipt of such knowledge or belief and shall take all actions necessary to alleviate the danger. CONCESSIONAIRE shall notify CITY immediately of any notice of violation received or initiation of environmental actions or private suits related to the Site.
- d. Environmental Assessment. At CITY'S option upon expiration or termination of this Permit, an environmental assessment of the Site shall 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 shall be obtained at CONCESSIONAIRE'S sole cost and expense, and shall establish what, if any, hazardous substances exist on, in, or under the Site, and in what quantities. If any hazardous substances exist in quantities greater than that allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then the environmental assessment shall include a discussion of these substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes, and estimates of the cost of such remediation or removal. CONCESSIONAIRE shall cause the remediation and/or removal recommended in the environmental assessment such that compliance with environmental law is achieved, and CONCESSIONAIRE shall pay all costs and expenses therefor.

36. Waiver. CITY'S failure to insist upon the strict performance of any of CONCESSIONAIRE'S obligations under this Permit, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. The property constituting the Site is CITY-owned and held in trust for the benefit of CITY'S citizens. CITY'S failure to discover a breach of any obligation of this Permit or take prompt action to require the cure of any such breach shall not result in an equitable estoppel, but CITY may at any and all times require the cure of any such breach.
37. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.
38. Joint and Several Liability and Responsibility. If CONCESSIONAIRE includes more than one person or legal entity, each such person and legal entity shall be jointly and severally liable and responsible for the performance of each and every obligation of CONCESSIONAIRE under this Permit.
39. Partial Invalidity. If any term, covenant, condition, or provision of this Permit is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.
40. Number and Gender. Words of any gender used in this Permit shall include any other gender, and words in the singular number shall include the plural, when the tense requires.
41. Captions. Section headings and captions shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Permit. The numbers of the paragraphs and pages of this Permit may not be consecutive. Such lack of consecutive numbers shall have no effect on the enforceability of this Permit.
42. Entire Permit. This Permit constitutes the entire Permit between the parties and supersedes any and all prior understandings, representations, warranties and Permits between them and pertaining to this Permit and CONCESSIONAIRE'S occupancy, use, development, and maintenance of the Sites. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.
43. Legal Proceedings. If either party commences legal proceedings to enforce or interpret any right or obligation under this Permit, the prevailing party shall be entitled to an award of costs related thereto, including without limitation reasonable attorney fees and court costs.

44. Notices. Any notice required or permitted to be given under this Permit shall 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

45. Governmental Approvals. By entering into this Permit, 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.
46. San Diego's Strong Mayor Form of Governance. All references to "City Manager" in this Permit shall be deemed to refer to "the Mayor or his/her designee." This section shall 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.

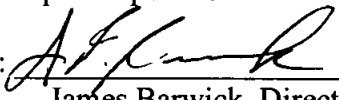
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47. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit on behalf of such person or entity in accordance with 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 Permit, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid.

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

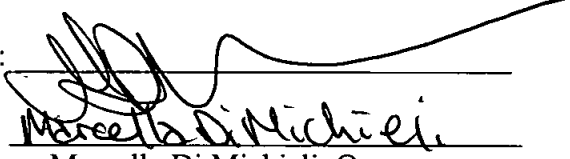
Date: 3/27/09

THE CITY OF SAN DIEGO, a California
municipal corporation

BY: 
James Barwick, Director
Real Estate Assets Department

Date: 3/27/09

SAN DIEGO BIKE & KAYAK TOURS,
Inc., CONCESSIONAIRE

BY: 
Marcella Di Michieli, Owner

APPROVED AS TO FORM AND LEGALITY:

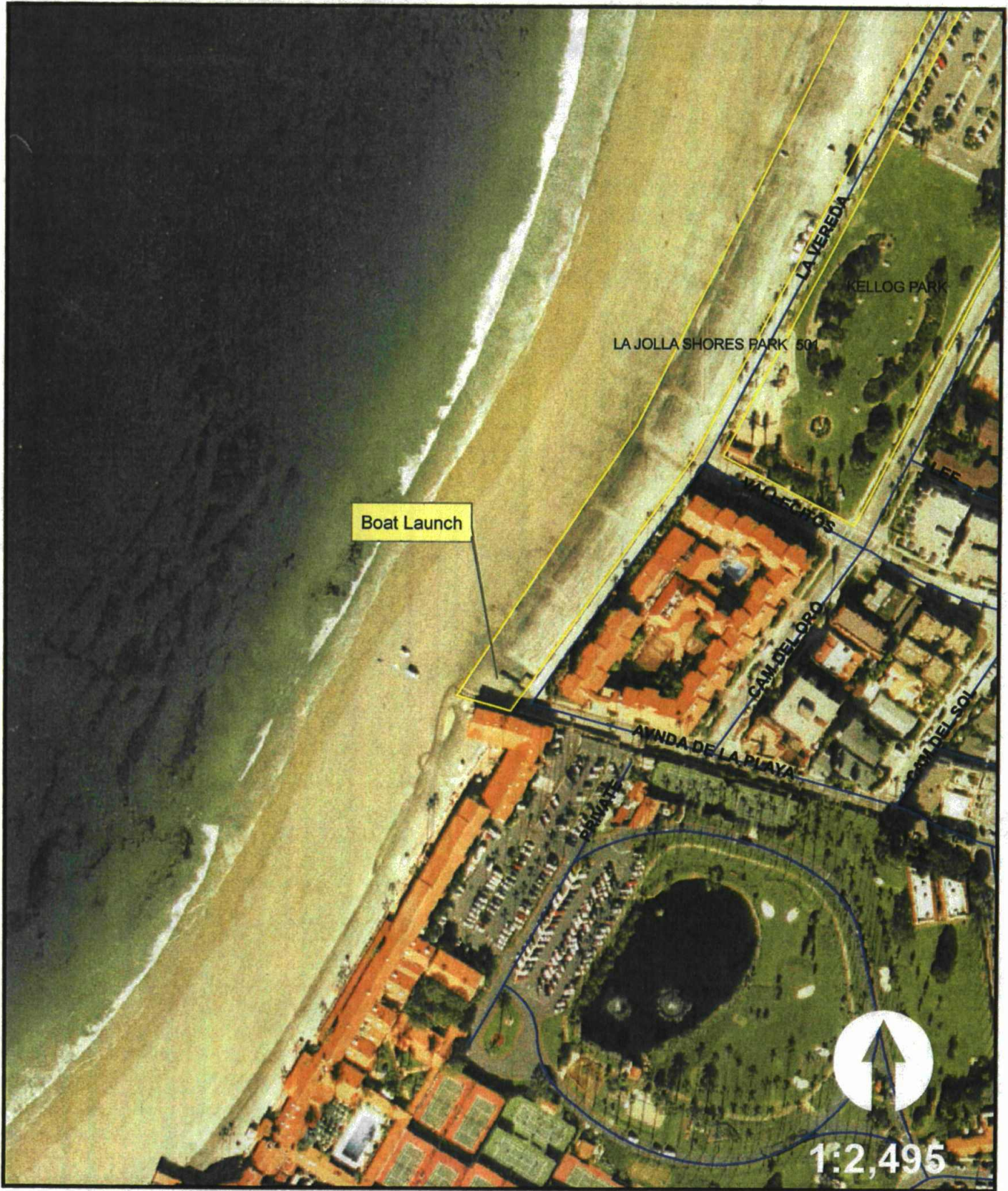
Effective Date: 4/1/09

JAN I. GOLDSMITH, City Attorney

BY: 
Deputy City Attorney

EXHIBIT A

La Jolla Shores Boat Launch



Every reasonable effort has been made to assure the accuracy of this map. However, neither the SanGIS participants nor San Diego Data Processing Corporation assume any liability arising from its use.

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THIS MAP IS PROVIDED WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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Exhibit B

The Tour Schedule is subject to revision at any time by the City

KAYAK TOUR SCHEDULE 09

8:00	LJK	LJK										
8:30	↓	↓		HBK	OEX							
9:00	↓	↓	SDBK	↓	↓		OEX	LJK				
9:30	↓	↓	↓	↓	↓	AA	↓	↓		SDBK	LJK	
10:00	LJSK	LJK	↓	↓	↓	↓	↓	↓	LJK	↓	↓	
10:30	↓	↓	↓	HBK	SDBK		↓	↓	↓	↓	↓	HBK
11:00	↓	↓	↓	↓	↓	↓	LJK	OEX	↓	↓	↓	↓
11:30	↓	↓	↓	↓	↓	↓	↓	↓	↓	SDBK	OEX	↓
12:00	OEX	LJK	SDBK	↓	↓	↓	↓	↓	↓	↓	↓	↓
12:30	↓	↓	↓	HBK	LJSK	HBK	↓	↓	↓	↓	↓	↓
1:00	↓	↓	↓	↓	↓	↓	LJK	OEX	OEX	↓	↓	↓
1:30	↓	↓	↓	↓	↓	↓	↓	↓	↓	HBK	SDBK	LJK
2:00	SDBK	LJK	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓
2:30	↓	↓	↓	SDBK	HBK	↓	↓	↓	↓	↓	↓	↓
3:00	↓	↓	LJK	↓	↓	↓	LJSK	LJK	↓	↓	↓	↓
3:30	↓	↓	↓	↓	↓	SDBK	↓	↓	↓	HBK	SDBK	↓
4:00	LJK	OEX	↓	↓	↓	↓	↓	↓		↓	↓	↓
4:30	↓	↓	↓	SDBK	SDBK	↓	↓	↓		↓	↓	
5:00	↓	↓	↓	↓	↓	↓	LJK	SDBK		↓	↓	
5:30	↓	↓	↓	↓	↓	↓	↓	↓		LJSK	OEX	
6:00	OEX	HBK		↓	↓	↓	↓	↓		↓	↓	
6:30	↓	↓		SDBK	SDBK		↓	↓		↓	↓	
7:00	↓	↓		↓	↓					↓	↓	
7:30	↓	↓		↓	↓							
8:00				↓	↓							

EXHIBIT C

Kayak Concession Requirements

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

A commercial kayak operator issued a Concession by the Mayor shall maintain continual adherence to all terms and conditions included herein and all applicable laws and shall take the necessary safety precautions to ensure that the public and beach are protected.

1. Ocean Conditions and Safety

Concessionaire must **check the surf report** maintained by the San Diego Fire-Rescue Lifeguards (619/221-8824) each day. Concessionaire must provide information to clients of daily conditions and/or hazards and the dangers inherent in kayaking in open exposed bodies of water and close proximity to the La Jolla Sea Cave's and its rocky shoreline.

Concessionaire and its employees, agents and/or affiliates must adhere to all directions provided by lifeguards, other representatives of the CITY of San Diego, or any other officer with authority to enforce local, state or federal law. In the case of disputes, supervisory personnel may be summoned, but the decision of lifeguards regarding any particular matter on a given day is final and should be brought to the attention of the area lieutenant as necessary at a later time.

Lifeguards reserve the right to close the boat launch and/or terminate any kayak tours and/or rentals based on safety considerations.

2. Identifying Markers

Concessionaire (owner), its employees and/or agents must be readily identifiable, a company shirt or rash guard with a logo in clear view, as authorized employees and/or agents of the company.

All kayaks used in Concessionaire's commercial kayak operations shall be marked with the name or logo of the licensee's and an individual, non-duplicated number. The markings shall be plainly visible and legible from a distance of fifty (50) feet.

All rental kayaks must display a sticker, visible from twenty-five (25) feet, on the port side near the stern designating it as part of the Rental Kayak Fleet.

3. Concession Site/Location

All business transactions must be conducted within Concessionaire's storefront address. Concessionaire will conduct all orientation/training inside of store or on the designated Site. Concessionaire shall provide sufficient space inside of store to accommodate the flow of tour/rental customers and customers of the concession shall not obstruct access to neighboring businesses or residences. Concessionaire's violation of this provision shall be considered a breach of this Permit and may be cause for termination.

4. Boat Launch/Operator Vehicles

Concessionaire's vehicles and trailers used for the transport and delivery of kayaks and/or equipment, utilizing the boat launch:

- Must possess current registration, and drivers a valid California driver's license.
- Vehicles must be "all wheel drive", in that power is supplied to both axles and all the wheels.
- Vehicles and trailers must be clearly marked with the company's name by either permanent or magnetic signs, and plainly visible and legible from a distance of one hundred (100) feet.
- The boat launch area must be kept clear at all times. Boats must not be left in a position that obstructs free use of the launch area.

5. Concession Site - Regulations

All outfitting and rigging of kayaks, training of clients will be conducted on dry land at a designated site. The boat launch area must be kept clear at all times. Kayaks and equipment must not be left in a position that obstructs free use of the boat launch area.

The Site may be made available to Concessionaires for storage. A maximum of twenty (20) kayaks and forty (40) paddles owned or controlled by Concessionaire may be delivered to the area at any one time.

Concessionaire must adhere to a fifteen (15) minute drop off and pickup of kayaks and materials on the beach.

Concessionaire must adhere to all the laws, rules and guidelines for traffic at the boat launch and adjacent streets, including but not limited to speed, staging, parking and traffic flow with extra care and concern given for the safety of the public.

6. Maximum number of tour participants/ Student to instructor ratios

Kayak tours will never exceed twelve (12) kayaks total (ten (10) client kayaks and two (2) kayak guide kayaks), and must adhere to the following criteria:

One (1) kayak guide for every five (5) client kayaks. Should a kayak tour exceed five (5) client kayaks an additional kayak guide will be required.

Ratio of clients to kayak guides will never exceed ten (10) clients to one (1) kayak guide (10:1), regardless of the number of kayaks.

7. Water Activity Zones

Kayak tours will adhere to San Diego Municipal Code (63.20.2) defining Water Activity Zones and buoy demarcated use areas at all times including, but not limited to, swim zones, no board surfing zones, boat launch zone and no boat zone.

All kayak rentals, whether for tours or for individuals, will adhere to San Diego Municipal Code (63.20.9) defining rules for boat beaching and launching.

8. Equipment:

At least one (1) kayak guide must have a U.S. Coast Guard approved visual and auditory signaling device, a hand held Vhf radio and/or cell phone, and be trained in their use.

All kayak tours conducting tours of LJ Sea Caves area shall possess and wear a properly fitting and secured helmet, appropriate for whitewater use.

Concessionaire shall maintain all kayaks and operational equipment in sound working order and condition.

Rental kayaks may not be deposited at the designated rental kayak storage area prior to 8:00 a.m. and must be removed before 8:30 p.m.

Kayak operators must provide an employee to monitor the rental kayak storage area at all times during operation.

Kayak storage area will be maintained in a neat and orderly manner at all times, rental kayaks and/or equipment will be stacked, in the designated area, so as not to impede any and/or all other activities within the boat launch.

The CITY has the right to adjust the location of the rental kayak storage site based on safety or other considerations.

9. 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.

10. Safety Precautions/Emergency Response Plan

Concessionaire must maintain a record of the client's name, local contact number and kayak identification number to aid with locating the client should they go missing.

Rental kayak clients shall be provided with a waterproof map of the adjacent water area, clearly depicting all CITY of San Diego Municipal Code (63.20.2) Water Activity Zone Areas, known hazards and off limits areas.

Concessionaire must make clients aware of know hazards, off limits areas and CITY of San Diego Municipal Code (63.20.2) Water Activity Zones, preferably by referencing the provided map, and that any violations may result in a citation and/or injury.

Concessionaire shall provide a properly fitting U.S. Coast Guard approved Type III or Type V personal flotation device to each client.

If a client reports an injury to Concessionaire or the Concessionaire is aware of an injury or accident that requires medical services and the injury occurs during the performance of a Concessionaire's services from launch to beaching, in addition to alerting the SD Fire-Rescue Lifeguards the Concessionaire shall file an accident report with the Shoreline Parks District Manager.

Concessionaire shall keep a file on record of all accident reports for three (3) years after each event.

11. Minimum Requirements for Guides

Must be at least eighteen (18) years old.

All kayak guides are responsible for completing and maintaining the minimum qualifications as outlined:

- A valid Basic First Aid certification from the American Red Cross or the equivalent.
- A valid CPR certification by either the American Red Cross as a Professional Rescuer or American Heart Association as a Healthcare Provider or the equivalent.
- Certificate of completion for the San Diego Fire-Rescue Lifeguard Three (3) R's (Rocks, Reefs and Rips) Course.
- A valid Canoeing Safety Test star rating certification from the British Canoe Union.
- Supervise and instruct clients and be capable of giving a suitable orientation talk to all clients in his or her kayaks on relative subjects which may include, but not limited to, overall safety, personal floatation devices, emergency signaling devices, kayak paddling/maneuvering skills.
- Possess a general knowledge of emergency access and evacuation routes, and summon and assist, when requested, any emergency response personnel.

Concessionaire may request variations from the kayak guide qualifications set forth in this section. Requests for variations must be made in writing to the Park and Recreation Department and the request shall substantiate that the variation does not reduce the intent of the qualification set forth in this rule.

Documents relating to the requirements of this section shall be kept at the Concessionaire's storefront for inspection by the manager or representative.

Keeping patrons safe while engaged in kayak tours and kayak rentals will be the highest priority of each kayak operator. Should the manager or representative, San Diego Fire-Rescue Lifeguards or other official CITY personnel find violations or a pattern of violations of any requirement of this permit then a notice will be issued.

12. Concession Violations

The CITY reserves the right to perform inspections and/or reviews with or without advanced notice. These inspections and/or reviews may be for any or all aspects related to the Concession Permit and its exhibits, including but not limited to certificates and qualifications of tour guides; other safety issues; adherence to a tour schedule; records pertaining to renters. Violation of the Concession Permit may result in revocation of the Permit. With regard to safety, the CITY or any officer with authority to enforce local, state or federal law, has the right to terminate any tour or individual kayak rental if there is a violation of safety requirements.

Concessionaire will be cited for violations of criminal and civil laws. In addition, Concessionaire will be issued a notice for violations of the conditions of this Concession Agreement.

Concessionaires receiving more than one notice of violation or conviction in a one year period will be evaluated by CITY and will be subject to revocation of the Permit or non-renewal.

13. Additional stipulations for tours and rentals:

In addition to designated tours, each licensee will be permitted to rent no more than fifteen (15) kayaks to other individuals (non-tour) at any one time during peak season weekends. (June 13-Sept 1)

Tour slots as well as rental allocations will not be assigned or transferred between operators during the first permit year.

14. Additional Concession Stipulations

Concessionaire must have a valid license to do business within the City of San Diego, as well as a storefront, as stated in the Agreement, where business will be conducted.

No business transactions or solicitation for business are permitted on CITY property (i.e. advertising, signing of waivers, collecting of money, etc.). All business transactions must be conducted within licensee's storefront address stated in the Agreement.

Operating Plan: Part I

Description of Proposed Operations

San Diego Bike & Kayak Tours, Inc. respectfully submits the following proposal to operate kayak concessions at the La Jolla Shores public boat launch. As a current qualified operator, SDBK is prepared to operate with reductions due to limited weekend operations during peak season to ensure a safe and pleasant environment for both residents and tourists.

SDBK's organization and qualifications demonstrate the necessary experience to operate commercial kayak concessions while also respecting the sensitivity of the natural environments and the sustainability for public usage.

These proposed operations describe SDBK's Operating Plan, which fit within the Kayak Tour Plan established in the RFP. In addition to the Operating Plan, SDBK is also submitting a proposed addendum for consideration (Operating Plan, with Addendum).

"OPTING IN" FOR MAXIMUM TOUR SLOTS AND MAXIMUM AGREEMENT TERM

SDBK proposes to "Opt in" for peak summer weekends, and to be selected for the suggested maximum of fifteen (15) tours for peak season weekends, for the maximum available term of one (1) year with two (2) 1-year options, for a total of three (3) years.

REASONABLENESS OF PROPOSAL

All staffing, inventory and facilities maintained by SDBK display the capability and preparedness to submit and execute this proposal. The large staff (over 50 employees), two locations, extensive fleet, custom designed computer reservations system, Water Safety & Emergency Response Plans, and innovative impact control protocol are established, functioning components to properly and effectively operate daily and consistently with frequent kayak tour times.

HISTORICAL USAGE

SDBK has a proven record as a highly experienced, safe and professional kayak operator specializing in kayak tours, as opposed to rentals, and has operated historically with large volume. The current tour schedule offers tours each half-hour during operating hours with 1-2 tour groups leaving at each time slot. In past years, SDBK has executed far more than 15 daily tours, operating with as many as 27 tours filled to capacity on one day.

DESCRIPTION OF PROPOSED OPERATIONS: OPERATING PLAN

The historical usage as referenced is evidence that SDBK can reasonably and safely execute fifteen (15) tours and sell all available space to maintain profitable operations and maximize revenues for the CITY with percentage fees.

SDBK's record and prior usage illustrate its business model as operating with a flexible, frequent and available tour schedule, and operating with 15 tours under the Proposed Operations would be a significant reduction from current activities. Under this proposal, SDBK would be reducing tour volume and impacts associated with congestion on neighboring residents and businesses during peak summer weekends, while continuing to ensure safety in the water, neighborhood awareness, consumer protection, and a pleasurable environment for residents and tourists, while still remaining fiscally sound.

SDBK's kayak tour sales have historically been consistent throughout the summer season during both weekdays and weekends, creating a substantial foundation for the percentage fees. SDBK's strong base of historical revenues from summer weekday kayak tour sales supports the ability to fulfill the concessionaire agreement and decreases the volatility incurred by limited weekend sales. SDBK's weekday tour sales during the peak season account for more than half of total weekly kayak revenues.

Based on all available data, SDBK estimates that condensing its historical tour schedule and filling each of the 15 tours to capacity on weekends would produce nearly the same annual gross receipts as 2008 with only slight price increases. SDBK proposes to maximize kayak tour sales revenue by adjusting pricing on single kayaks for touring by a higher percentage in an effort to keep pricing competitive while also accommodating demand in a more operatively efficient manner, effectively reducing impact to the community and its limited resources.

SDBK will also decrease operating expenses during peak weekends, with an emphasis on payroll since tour operations will be reduced. Payroll reductions will however be commensurate with decreased tour operations and without compromising allocated staff, resources, and energy to specifically address neighborhood concerns such as sweeping sand throughout the day. A large staff affords SDBK the ability to accommodate customers at each time slot, earn revenue needed to pay concession fees, ensure proper safety in the water, and provide customer service in the store to maintain steady customer flow.

DESCRIPTION OF OPERATIONAL PERIOD FOR PROPOSED OPERATIONS

SDBK submits this Operating Plan for consideration outlining the operation proposed to fulfill the requirements of the concession agreement. As required by terms of the RFP, this Operating Plan covers the period from June 1, 2009, through May 31, 2010, with peak season operations beginning on June 13, 2009 and extending through Labor Day.

A description of proposed operations for non-peak season and peak season weekdays is also included thereafter, describing non-peak season and weekday operations from Monday, June 1, 2009 through Monday, May 31, 2010.

DAYS & HOURS OF OPERATION

SDBK maintains hours of operation from 8 a.m. until sunset everyday, all year long, except in the case of inclement weather or rough ocean conditions.

SDBK's record and prior usage illustrate its business model as operating with a flexible, frequent and available tour schedule, and operating with 15 tours under the Proposed Operations would be a significant reduction from current activities. Under this proposal, SDBK would be reducing tour volume and impacts associated with congestion on neighboring residents and businesses during peak summer weekends, while continuing to ensure safety in the water, neighborhood awareness, consumer protection, and a pleasurable environment for residents and tourists, while still remaining fiscally sound.

SDBK's kayak tour sales have historically been consistent throughout the summer season during both weekdays and weekends, creating a substantial foundation for the percentage fees. SDBK's strong base of historical revenues from summer weekday kayak tour sales supports the ability to fulfill the concessionaire agreement and decreases the volatility incurred by limited weekend sales. SDBK's weekday tour sales during the peak season account for more than half of total weekly kayak revenues.

Based on all available data, SDBK estimates that condensing its historical tour schedule and filling each of the 15 tours to capacity on weekends would produce nearly the same annual gross receipts as 2008 with only slight price increases. SDBK proposes to maximize kayak tour sales revenue by adjusting pricing on single kayaks for touring by a higher percentage in an effort to keep pricing competitive while also accommodating demand in a more operatively efficient manner, effectively reducing impact to the community and its limited resources.

SDBK will also decrease operating expenses during peak weekends, with an emphasis on payroll since tour operations will be reduced. Payroll reductions will however be commensurate with decreased tour operations and without compromising allocated staff, resources, and energy to specifically address neighborhood concerns such as sweeping sand throughout the day. A large staff affords SDBK the ability to accommodate customers at each time slot, earn revenue needed to pay concession fees, ensure proper safety in the water, and provide customer service in the store to maintain steady customer flow.

DESCRIPTION OF OPERATIONAL PERIOD FOR PROPOSED OPERATIONS

SDBK submits this Operating Plan for consideration outlining the operation proposed to fulfill the requirements of the concession agreement. As required by terms of the RFP, this Operating Plan covers the period from June 1, 2009, through May 31, 2010, with peak season operations beginning on June 13, 2009 and extending through Labor Day.

A description of proposed operations for non-peak season and peak season weekdays is also included thereafter, describing non-peak season and weekday operations from Monday, June 1, 2009 through Monday, May 31, 2010.

DAYS & HOURS OF OPERATION

SDBK maintains hours of operation from 8 a.m. until sunset everyday, all year long, except in the case of inclement weather or rough ocean conditions.

SDBK is closed for kayak operations annually on the Fourth of July and on the Sunday of the Lifeguards' Annual Rough Water Swim in September. SDBK also closes on December 24th and 25th each year. These hours of operation are effective for the proposed operation during peak season and non-peak season.

CAPACITY OF PROPOSED PEAK SEASON WEEKEND OPERATIONS

Under this proposal, SDBK proposes to operate fifteen (15) kayak tours on Saturdays and Sundays during peak summer weekends, based on historical usage and financial data, which demonstrate SDBK's position as the largest, most frequent kayak tour operator.

During peak season weekends, SDBK also proposes to be permitted to rent no more than fifteen (15) kayaks to individuals (non-tour) at any one time.

With this proposal of fifteen (15) kayak tours during peak summer weekends, SDBK is proposing a ceiling on weekend operations that reduces SDBK's historical peak season weekend operational activities by about twenty percent with a condensed tour schedule. With this proposed Operating Plan, SDBK will have fewer customers, bringing less people and fewer cars to the area and thereby reducing impact to residents, the boat launch and the Ecological Reserve. With fifteen (15) proposed tours on peak season weekends, there is a finite cap on the quantity and frequency of operations that is a major reduction from historical usage.

SCHEDULE OF TOURS

With fifteen (15) allotted tour times under the 54 time slot system, SDBK proposes to offer twelve (12) 90-minute kayak tours and three (3) 150-minute Special Tours. This proposed tour schedule is compatible with SDBK's hours of operation from 8 a.m. until sunset daily.

KAYAK TOUR TIME SLOTS 2009: 15 TIME SLOTS

90-Minute A.M. slots	9:30	10:30	11:30							
90-Minute P.M. slots	1:30	2:00	2:30	3:30	4:30	4:30	5:00	6:30	6:30	
150-Minute Special slots		9:00	12:00	3:30						

Per Capt. Rick Wurtz, the late tour times that are affected by the sunset schedule will be adjusted as follows:

June 12-July 19: both 6:30 pm time slots move up to 6:15 pm
 July 20- Aug. 2: both 6:30 pm time slots move up to 6:00 pm
 Aug. 3- Aug. 23: both 6:30 pm time slots move up to 5:45 pm
 Aug. 24-Sept. 7: both 6:30 pm time slots move up to 5:30 pm

See included exhibits reflecting the tour schedule outlined above.

NUMBER OF PARTICIPANTS PER TOUR

With the proposed Operating Plan, each of these 15 proposed tour times would be filled to capacity with ten customer kayaks and two tour guides, resulting in a total of 12 kayaks and

no more than 20 participants and two tour guides on each tour, in accordance with guide to client ratios and maximum tour capacity.

Historically, SDBK's average kayak tours have had a 2:1 ratio for doubles to singles, and therefore the majority of each of these 15 proposed tours would likely have six to seven double kayaks and three or four single kayaks on each tour, resulting in an average of sixteen (16) participants per tour in these proposed operations. This leaves room for growth in revenues without increasing output and still operating within the limited tour schedule.

NUMBER OF KAYAKS UTILIZED IN PROPOSED OPERATIONS

SDBK currently utilizes a kayak fleet consisting of 84 kayaks of which 50 are double kayaks and 34 are single kayaks.

Historically, SDBK encourages double kayaks over single kayaks with strategic price points and discounts. It is however necessary to maintain a kayak fleet that is slightly larger than the maximum number of kayaks necessary for operations to accommodate varying and unpredictable quantities of double kayaks versus single kayaks that customers wish to utilize simultaneously and in the event that some kayaks are in need of repair. Additional kayaks that vary in size are also necessary to accommodate various client shapes and sizes.

PEAK WEEKEND PRICE LISTS

SDBK proposes the following price list to slightly shrink demand while still competitively pricing tours at a reasonable rate for consumers. This price list poses an average 20% increase from previous years to meet 2008 gross kayak revenues even with decreased output and to sustain percentage fees. This price list also factors in lost sales due to the fact the some customers can only participate on weekends at specific times.

PEAK SEASON WEEKEND PRICE LIST

	SINGLE KAYAK	DOUBLE KAYAK	CLEAR BOTTOM SINGLE
90-MINUTE KAYAK TOUR	\$71	\$95	\$80
180-MINUTE KAYAK/SNKL TOUR	\$85	\$130	\$95
2-HOUR KAYAK RENTAL	\$39	\$55	\$40

This price list also keeps the price variance for single kayaks higher to sway customers traveling in pairs to select double kayaks instead of singles. This pricing strategy will maximize profits for both the CITY and SDBK while also avoiding the mistake of making single kayaks so grossly unaffordable that customers opt out of the activity altogether.

Historically, SDBK encourages double kayaks over single kayaks with strategic price points and discounts. Single kayaks are priced significantly higher on a per person basis than double kayaks and double kayaks are also slightly discounted with advance reservations. Double kayaks are more efficient based on their price to maximizing revenue while also minimizing the number of kayaks in the water.

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SDBK proposes to increase prices Monday through Friday on peak season weekdays to minimize overflow on weekdays during the summer.

During summer weekday operations, SDBK proposes to offer 120-minute kayak tours each hour during operating hours to create a smaller, constant and steady flow of kayaks, instead of having fewer, infrequent tours that inevitably are larger. Additionally, SDBK plans to offer a 150-minute Kayak & Snorkel Tour on each half hour from 9:30 a.m. through 3:30 p.m. on summer weekdays. This tour schedule with tours slightly longer in duration creates a steady pace of kayak inventory and limits the frequency of recycled kayaks.

SDBK successful business model to date has offered a wide range of availability at competitive prices, with discounts for advance reservations for both kayak tours and rentals. SDBK has discounted non-peak times (9 a.m. and each tour after 4 p.m.) during weekdays and non-peak season to distribute tour capacities more evenly and to ease demand at peak operating hours. This strategy of encouraging advance reservations and attracting customers to non-peak times on weekdays imposes structure, organization and predictability. SDBK's weekday operations during the summer are proposed to follow a similar format for this Agreement.

SDBK's non-peak season operations during the late fall and winter months operate on a less frequent schedule without 180-minute kayak and snorkel tours.

PRICE LIST FOR WEEKDAYS & NON-PEAK SEASON

SDBK also proposes to increase prices from previous years for peak season weekdays during the summer to close the gap with peak season weekend pricing. Increasing prices for weekday peak season tours will prevent massive overflow to the weekdays in the summer, while also increasing revenues during the weekdays to make up for lost revenues due to limitations imposed on weekends.

This pricing strategy will reduce impact to the community on weekdays, while also preventing large overflow as a result of increased weekend pricing. SDBK also proposes to continue offering its signature 120-minute Kayak Tour of the 7 Caves on weekdays. These longer tours will limit the frequency of kayaks coming in and out of the boat launch, minimizing impact while also offering a better value product for the consumer.

PEAK SEASON WEEKDAY PRICE LIST

	SINGLE KAYAK	DOUBLE KAYAK	CLEAR BOTTOM SINGLE
120-MINUTE KAYAK TOUR	\$55	\$85	\$65
180-MINUTE KAYAK/SNKL TOUR	\$70	\$115	\$80
2-HOUR KAYAK RENTAL	\$28	\$45	\$40

SDBK proposes no pricing increases during the off-peak fall and winter months as outlined in the subsequent off-peak price list. Because there is little demand during the off-season, SDBK plans to keep prices the same as 2008 for operations.

NON-PEAK SEASON PRICE LIST

	SINGLE KAYAK	DOUBLE KAYAK	CLEAR BOTTOM SINGLE
120-MINUTE KAYAK TOUR	\$50	\$80	\$60
180-MINUTE KAYAK/SNKL TOUR	\$65	\$110	\$75
2-HOUR KAYAK RENTAL	\$28	\$45	\$38

SUMMARY OF HISTORICAL USAGE

Since the number of tour time slots awarded to selected operators is based partially on historical use, it is necessary to recognize SDBK's specialization in guided kayak tours and established market share in this specific field.

SDBK is the largest, most frequent kayak tour operator in La Jolla Shores, with 2008 gross kayak tour sales topping \$938,000 just by the end of the third quarter, and annual gross kayak revenues estimated to be \$1,058,000 by year end. These sales figures demonstrate SDBK's established market share approximated at forty percent of specifically the current kayak tour marketplace in La Jolla Shores. SDBK has historically operated as many as 27 full capacity tours on summer weekends.

SDBK has historically operated up to a total of 27 full capacity tour during peak season weekends. During the month of August, historically the busiest month of the year for kayak operators, SDBK operated with an average of 18 maximum capacity tours on weekends.

July 5th was the busiest single day of 2008 and 37 tours departed throughout the day; however, some of these tours were filled to capacity and others were filled with less than five kayaks. If each tour on July 5th, 2008 was filled to capacity and the tour schedule was condensed accordingly, 27 full capacity tours would have departed that day.

The historical sales figures outlined Chapter 4 illustrate SDBK's position as the industry leader in kayak tour sales and reflect SDBK's historical record of being able to fill and sell out more than 15 tour times as proposed in the Operating Plan.

Historically, SDBK has operated more than 15 tours on a daily basis and has the staff, store space, store amenities, vehicles, phone systems, reservations systems, Water Safety Plan, Emergency Response Plan, operational history, and proven organization to operate safely and efficiently with fifteen or more tours.

KAYAK TOUR TOPICS, NARRATIVE & ITINERARY

During each tour offering, tour guides cover a wide range of material including detailed discussions on marine life, erosion patterns, coastal preservation, ecosystems within the Ecological Reserve, water safety procedures, swell movements, and sea kayaking techniques.

SDBK prides itself on being the industry leader in the quality and comprehensiveness of the content covered on all kayak tours and the relevant and coherent delivery of tour dialogue.

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Operating Plan: Part II

Minimizing Impact, Managing Customer Traffic & Kayaks

San Diego Bike & Kayak Tours, Inc. has implemented measures to manage customer volume, customer traffic and kayak inventory to minimize impact to the area. These existing measures would be applied and further expanded to the proposed operations previously outlined in Chapter 1, Part I. The effectiveness of these existing measures would only be improved with the limited tour schedule.

Since SDBK's officers are both residents and business owners on Avenida De La Playa in La Jolla Shores, this unique position enables them to better manage professional operations that are also sensitive to community concerns.

MANAGING CUSTOMER TRAFFIC, KAYAK VOLUME & INVENTORY CONTROL

SDBK operates efficiently with a kayak fleet of 84 kayaks. Because SDBK operates with multiple tours at each half hour, the kayak fleet is spread out evenly throughout the day and in the water. This frequent and available tour schedule creates a steady flow of kayaks departing and returning, instead of having massive quantities of kayaks departing and returning simultaneously as would be the case with large, infrequent tours, or with many unscheduled kayak rentals. This steady pace of controlled kayak inventory ultimately imposes a more evenly dispersed customer pace and this carries over into parking as well as overall vehicular and pedestrian traffic to the area.

SDBK's current tour schedule offers frequent tour times with discounts as incentives for off-peak tour times to ease congestion during peak operating hours. As described in the Operating Plan, SDBK proposes to maintain this same business model, which will effectively promote this same concept but at even further exaggerated levels with reduced, limited time slots.

SDBK uses nearly all of its kayak fleet for kayak tours, while only allotting about 12% of its fleet to be occupied with individual kayak rentals at any time. This strategy results in increased revenues with less impact to the area because tours are more profitable than rentals, and tours are structured, scheduled and supervised. Because kayak tours cost about twice the price of a kayak rental, SDBK can accumulate greater revenues with less impact than a company that has a larger fleet and primarily offers kayak rentals.

Additionally, SDBK takes reservations to schedule kayak rentals and offers discounts for advance reservations for both its tours and rentals. This strategy of promoting advance reservations encourages customers to reserve kayak rentals and tours ahead of time, therefore enabling SDBK to accurately predict and control customer traffic and its kayak fleet. SDBK is the only operator that takes kayak rental reservations for nearly all individual kayak rentals. This rental reservation strategy promotes structure, organization and kayak inventory control.

CUSTOM RESERVATIONS SYSTEM TO MANAGE CUSTOMER FLOW

In early 2008, SDBK designed, developed and programmed a custom, comprehensive online/in-store reservations system that is built to specifically manage customer flow, control kayak inventory at specific times, and control customer traffic by creating a steady pace of kayak departures and returns.

KAYAK TOUR TOPICS, NARRATIVE & ITINERARY

CONFIDENTIALITY DISCLAIMER

SDBK is disclosing full details regarding this intellectual property for the purposes of this RFP. The full tour narrative and topic discussions are detailed in the subsequent insert and are designed for removal. We request that these specifics remain confidential and unavailable as public information.

Confidential Tour Narrative to Follow

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Confidential Tour Narrative to Follow

This reservations system enables SDBK to manipulate the allotted kayak inventory for particular tour times or for a particular day, enabling SDBK to discount unfilled or unpopular kayak tour times on a specific day to maximum capacity. This custom computer reservations system encourages customers through discount incentives to book tours at less desirable, unpopular times resulting in fewer crowds and less congestion at peak times. Using incentive discounts for less desirable tour time slots enables SDBK to fill these slots to maximum capacity resulting in increased revenues with decreased output at more popular times, easing overall congestion during peak operating hours and therefore reducing impact.

NEW RESERVATION
CHANGE RESERVATION
CHECK-IN
PRINT MANIFEST
LOGOUT

Make a New Reservation »
Step 1: Ticket
Step 2: Billing
Step 3: Confirmation
Step 4: Readout

Choose a Location

Coronado
La Jolla

Daily Information

Select Date:

July 2008

First Name:
Last Name:
Cell Phone Number:

Choose a Time & Tour/Rental

Rentals Tours Both

Kayak: Tour of the 7 Caves of La Jolla - \$49

Bikes
Kayaks
Snorkels

With this programming, the reservations system promotes a steady, constant flow of customer traffic to manage tour volume and frequency. With this custom reservations system, SDBK can manage customer traffic and its kayak fleet, deliberately controlling the quantity and pace of customers and kayaks, resulting in a more efficient operation that uses fewer kayaks than other operators of similar size or sales volume.

The system also displays a bar graph for SDBK customer service staff to determine how full or available certain tour times are when assisting customers with phone reservations. The system updates information including online sales instantly, enabling customer service staff to accurately and

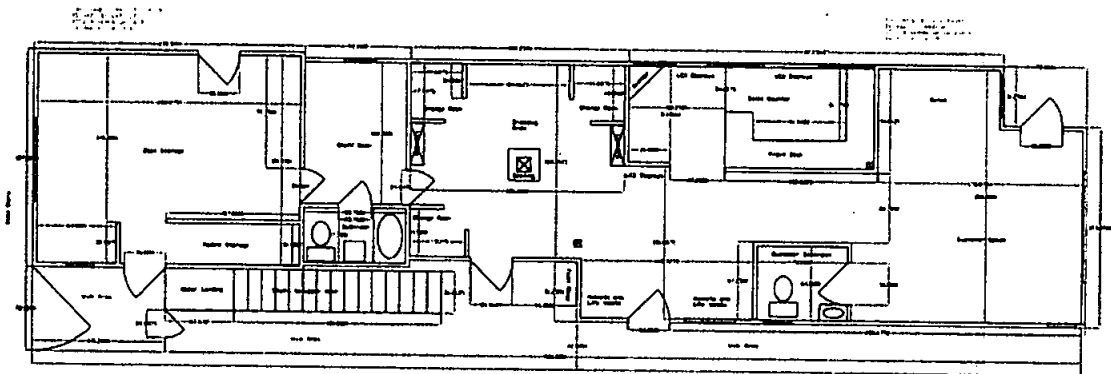
readily inform customers of availability which prevents overbooking a specific tour time, a feature that is of particular significance with the reduced, structured tour schedule format for 2009.

This custom computer reservations system also sends a reserved customer an automatic confirmation email that includes a map, parking directions, cancellation policies, attire suggestions and available shuttle instructions for efficiency in operations.

ADEQUATE SPACE TO ACCOMMODATE KAYAK INVENTORY & CUSTOMER VOLUME

SDBK maintains two locations in La Jolla Shores due its customer volume and kayak fleet size. SDBK's primary storefront at 2222 Avenida De La Playa includes approximately 1500 square feet of commercial space, most of which is designated as changing and locker room space for customers to maneuver through the store, get fitted for equipment and store their personal belongings.

A minimal amount of this total space is allotted for retail space and approximately 300 square feet within the facility are occupied by kayak storage. SDBK's storefront schematic featured below illustrates that nearly 79% of SDBK's total storefront square footage is designated as customer space with lockers, changing rooms, restrooms, life vests, helmets, and general free space to accommodate customer flow, while 20% is allotted for kayak storage, and only about 1% is allotted for retail.



SDBK's primary storefront (pictured above) is approximately 16 feet wide by 96 feet long (16 ft. x 96 ft.). The pictured store schematic is on a very small scale, due to the overwhelming length of the building, in relationship to its width. (Refer to the end of this section for a larger scale schematic of SDBK's primary storefront that more clearly depicts in-store layout demonstrating space available to accommodate customer volume.)

SDBK rented a second facility in La Jolla Shores in early 2008 to accommodate its growing business, adding an additional 900 square feet of commercial space west of the La Jolla Shores Market. This additional facility is located at 2244 Camino Del Reposo (it has a Camino Del Reposo street address, instead of Avenida De La Playa, because the front door entrance is on Camino Del Reposo). This additional shop helps manage the flow of customer traffic and eases the foot traffic on Avenida De La Playa, while also decreasing the number of customers directly on the street.

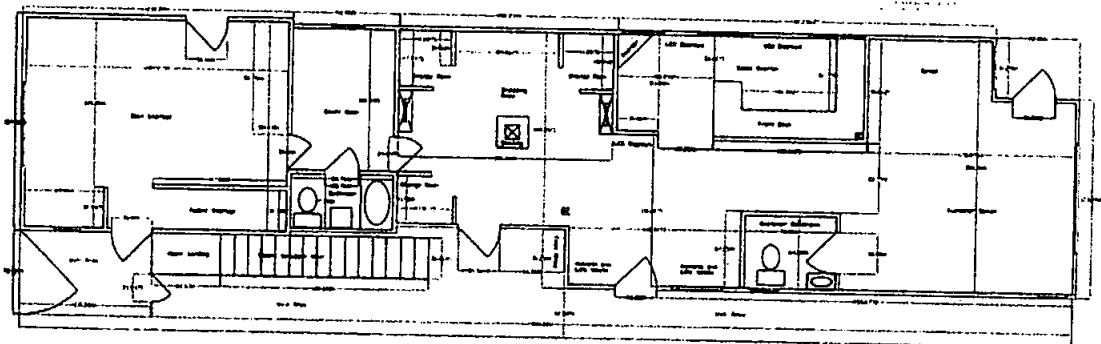
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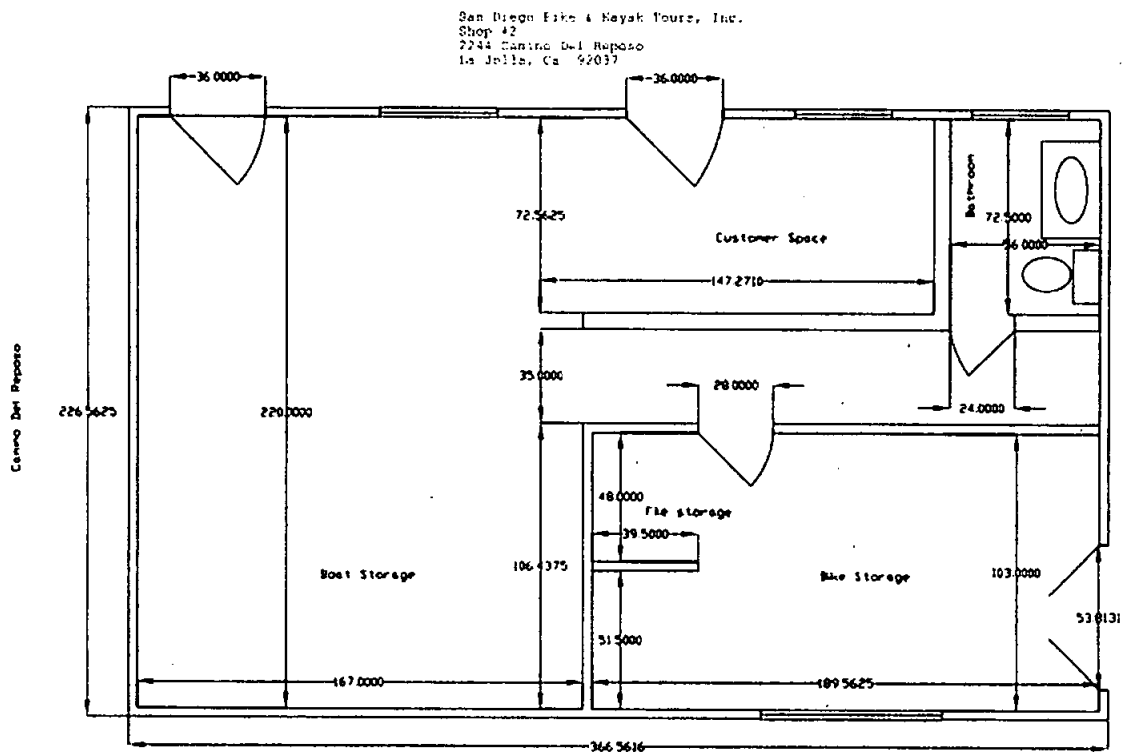
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This second location was added for three purposes:

1. To use it to accommodate all bike customers and bike storage, therefore freeing up additional space within the primary storefront at 2222 Avenida De La Playa for changing rooms and increased kayak customer volume. This location also accommodates bike rental returns, so less equipment is coming in and out of the primary storefront.
2. To accommodate additional kayak inventory. This facility stores about half of the kayak fleet while the other half is stored in the kayak storage room within the primary storefront. By storing half of the kayak fleet in this location, additional space is available to manage the flow of customer traffic within the primary storefront. More space is available to accommodate customers within the primary storefront and less equipment is loaded and unloaded out of the main location.
3. To reduce the number of customers directly in and around the primary Avenida De La Playa storefront. This additional location redirects a portion of customers, thereby reducing the impact of foot traffic to residents and other business owners on the 2200 block of Avenida De La Playa.

All 84 kayaks and other equipment are stored inside of these two storefronts, complying with the La Jolla Shores Planned District codes. Amongst its two store locations in La Jolla Shores, SDBK has adequate space to accommodate both its large customer volume and a kayak inventory.

Acquiring this additional facility demonstrates SDBK's deliberate measures to partner with the local community to minimize impacts on residents and businesses. Although this additional facility adds another rental expense to overall operating costs, it eases customer traffic and minimizes the impact on neighboring residents and businesses.

IN-STORE BUSINESS TRANSACTIONS & CUSTOMER TRAFFIC

All kayak tour and rental participants meet inside of the SDBK storefront at 2222 Avenida De La Playa in La Jolla Shores, while bike customers are directed to the additional location. SDBK's two facilities are both on one ground level, adhering to ADA requirements for wheelchair access and provide plenty of space to accommodate customer volume and kayak inventory.

Upon checking in, kayak tour and rental customers must complete the liability waiver at the counter and submit payment for services; a lowered return counter is also available for disabled customers using wheelchairs at the ADA permitted height of thirty four inches. All business transactions are conducted upon customer check-in inside of the storefront prior to services being rendered.

Any large customer groups are given the waivers in advance, to be signed and completed ahead of time; these customers are also typically required to submit payment in advance also. This policy results in a quick, easy check-in for larger groups keeping customer traffic as minimal as possible while also freeing up counter and store space for other customers. All kayak tour and rental participants meet inside of the SDBK storefront and all business transactions take place within the confines of the storefront.

These strict and efficient check-in procedures demonstrate SDBK's commitment to managing the flow of customer traffic and abiding by the City's rules of conducting business transactions within the storefront to ultimately minimize the impact of customer traffic for other local residents and businesses.

STORE AMENITIES TO ACCOMMODATE CUSTOMER VOLUME

After signing in and remitting payments, customers are then directed to the locker room area. The locker room and changing area is equipped with nearly 1200 square feet of changing space that incorporates customer amenities including three changing rooms, a customer restroom, 55 complimentary lockers with locks and keys for customers to securely store their personal belongings and LCD monitors to display the safety instructional video and an online surf report.

Customers are encouraged in advertising materials to come dressed in their bathing suits to keep the changing area as fluid and available as possible. Four total changing rooms are available, including the customer restroom to accommodate customer volume. This large changing area, locker space, and restroom help minimize the impact on local residents since customers make fewer trips to their parked vehicles with these amenities readily available.

The locker room is equipped with wall-mounted racks where customers retrieve life vests. These life vest racks vary in mounted height to accommodate any shorter or disabled patrons. Staff members are designated to the locker room area to assist customers with the proper life vest sizing and fit each kayak tour participant with the properly sized kayak helmet. These staff members also review the kayak rental water map with individual rental customers and answer any questions they may have about the water map or kayak rental rules before they watch the safety video.

SDBK also maintains hedged, potted plants with tall trellises along its eastern, neighboring property line. This measure creates a visual and physical barrier to avoid disturbance of neighboring businesses and residents. Staff members also direct and escort clients to the beach, minimizing the

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These strict and efficient check-in procedures demonstrate SDBK's commitment to managing the flow of customer traffic and abiding by the City's rules of conducting business transactions within the storefront to ultimately minimize the impact of customer traffic for other local residents and businesses.

STORE AMENITIES TO ACCOMMODATE CUSTOMER VOLUME

After signing in and remitting payments, customers are then directed to the locker room area. The locker room and changing area is equipped with nearly 1200 square feet of changing space that incorporates customer amenities including three changing rooms, a customer restroom, 55 complimentary lockers with locks and keys for customers to securely store their personal belongings and LCD monitors to display the safety instructional video and an online surf report.

Customers are encouraged in advertising materials to come dressed in their bathing suits to keep the changing area as fluid and available as possible. Four total changing rooms are available, including the customer restroom to accommodate customer volume. This large changing area, locker space, and restroom help minimize the impact on local residents since customers make fewer trips to their parked vehicles with these amenities readily available.

The locker room is equipped with wall-mounted racks where customers retrieve life vests. These life vest racks vary in mounted height to accommodate any shorter or disabled patrons. Staff members are designated to the locker room area to assist customers with the proper life vest sizing and fit each kayak tour participant with the properly sized kayak helmet. These staff members also review the kayak rental water map with individual rental customers and answer any questions they may have about the water map or kayak rental rules before they watch the safety video.

SDBK also maintains hedged, potted plants with tall trellises along its eastern, neighboring property line. This measure creates a visual and physical barrier to avoid disturbance of neighboring businesses and residents. Staff members also direct and escort clients to the beach, minimizing the

impact on nearby sidewalks.

These dual locations, in-store amenities, exterior plants and trained staff demonstrate SDBK's awareness and willingness to partner with the local community to minimize impacts on local residents and businesses. Having suitable customer space and amenities demonstrates SDBK's commitment to managing the flow of customer traffic in efforts to minimize the impact on other local businesses and residents.

KAYAK TRAINING & ORIENTATION LOCATIONS

After customers have signed in and been fitted with proper gear inside of the SDBK storefront, all customers watch a brief kayak safety and instructional video. Watching this safety video inside of the store limits the time in the designated beach training area while also reinforcing safety concerns. Kayak rental customers then receive a thorough explanation and review of SDBK's custom, kayak specific water map before being directed to the beach to check in with beach staff, retrieve paddles and assigned kayaks and provide last names for the documentation of kayak identification numbers.

Guides escort tour customers to the beach to keep clients off of private property, maintain appropriate volume levels and ensure general neighborhood courtesy. SDBK ensures that kayaks are dropped off or taken from beach storage and ready for usage by the time the group arrives at the beach to eliminate waiting time and therefore ease pedestrian traffic at the boat launch.

Tour guides stop on the sidewalk at the foot of the launch to explain the flow of traffic in the boat launch before walking on. The beach duty staff and accompanying guides work to direct customers close to the seawall on the eastern perimeter of the boat launch, so that customers are not disrupting beach goers, private boat launch users and vehicular traffic. Customers retrieve paddles at the beach from the paddle rack stored in the designated beach area. By placing paddles in the rack at the beginning of the day, customers are not walking up and down the nearby streets with paddles, minimizing the visual and physical impact to nearby businesses and residents.

The tour guides then conduct all paddle instruction, safety training and orientation in the designated beach area. Guides minimize congestion and impact on the beach by keeping paddle instruction as brief as possible without compromising safety instructions or other pertinent information. Beach duty personnel keep the area clear by monitoring pedestrian traffic and controlling kayak inventory at the beach.

ADEQUATE STAFFING FOR PROPOSED OPERATIONS

SDBK has a history of being able to recruit, assemble, certify and train a large team to adequately and appropriately staff daily operations. SDBK maintains a year round, veteran management team and tour guide staff consisting of about 20 employees, and SDBK additionally hires 30 or more seasonal employees in a timely fashion to allow for thorough training and timely certifications.

In 2008, SDBK staffed 44 certified tour guides during the summer season and maintained a total staff size of 51 employees. In 2007, SDBK staffed about 40 certified tour guides, and in 2006 SDBK staffed about 30 tour guides. SDBK has demonstrated a keen, effective ability to efficiently and adequately staff its operation with exceptionally qualified and knowledgeable personnel.

SDBK has a history of building and training its staff early in the season to allow for a sufficient amount of time to properly and thoroughly train each and every staff member. SDBK has historically conducted hiring in waves so that managers can devote enough time to properly and sufficiently train each new tour guide, monitor his/her progress and capabilities, and conduct evaluations. This process is described in detail in Chapter 6, Part III (6:3).

SDBK has historically had the earliest and largest enrollment in both the British Canoe Union certification courses and the Lifeguards' Rocks, Rips, & Reefs course, demonstrating SDBK's ability to adequately staff operations with properly trained personnel in a timely manner.

ADEQUATE STAFFING TO MANAGE CUSTOMER TRAFFIC & VOLUME

SDBK includes neighborhood awareness and an Employee Code of Conduct in its internal company-training program included in Chapter 6, Part III (6:3). SDBK has a large staff to ensure professional operations to complete daily tasks that minimize the impact on the community and nearby businesses and residents.

SDBK staffs beach duty personnel at the beach to manage tour and rental customers and kayaks to minimize congestion at the boat launch. These beach staff are also responsible for picking up trash at the beach when it is observed.

SDBK staffs each summer day in a staggered fashion with the Opening Manager arriving between 6:45 a.m. and 7 a.m. The next two staff members typically arrive at 7:30 a.m. and four or more staff members arrive by 8 a.m. This staggered arrival of staff continues through 12:30 p.m. with the arrival of the day's Closing Manager and closing staff; the closing staff typically work until 8:30 - 9 p.m. each day in the summer.

With a large staff of over 51 employees, SDBK can staff daily operations to accommodate customer traffic and volume. In addition to maintaining adequate staffing to conduct daily tour operations with required ratios, SDBK also staffs a certain number of employees to provide customer assistance in and around the shop in order to keep the flow of customers moving expeditiously. These additional employees also perform daily cleaning and maintenance activities including sweeping the streets and sidewalks, picking up trash and inspecting equipment.

Historically, SDBK has staffed about 40 employees on summer weekend days, and about 30 staff employees on summer weekdays to ensure adequate staffing for tours and daily operations.

CLOSING ETIQUETTE

SDBK employs a large staff to ensure proper and complete closing procedures are adhered to. At the end of each day, the closing manager takes inventory of the boats and makes sure that the boat launch area is clear of equipment and garbage. Kayaks and equipment from the trucks are properly put away and any miscellaneous trash is removed from the back of the trucks.

Any trash in the nearby streets or around the storefront is picked up and thrown away. The streets and sidewalks in front of and behind the storefront are swept; Avenida De La Playa and Calle Clara

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are swept all the from Paseo Del Ocaso down to El Paseo Grande, removing any sand and water. Sweeping is also done as needed throughout the workday. Company vehicles are parked in appropriately marked parking spaces after they are cleaned.

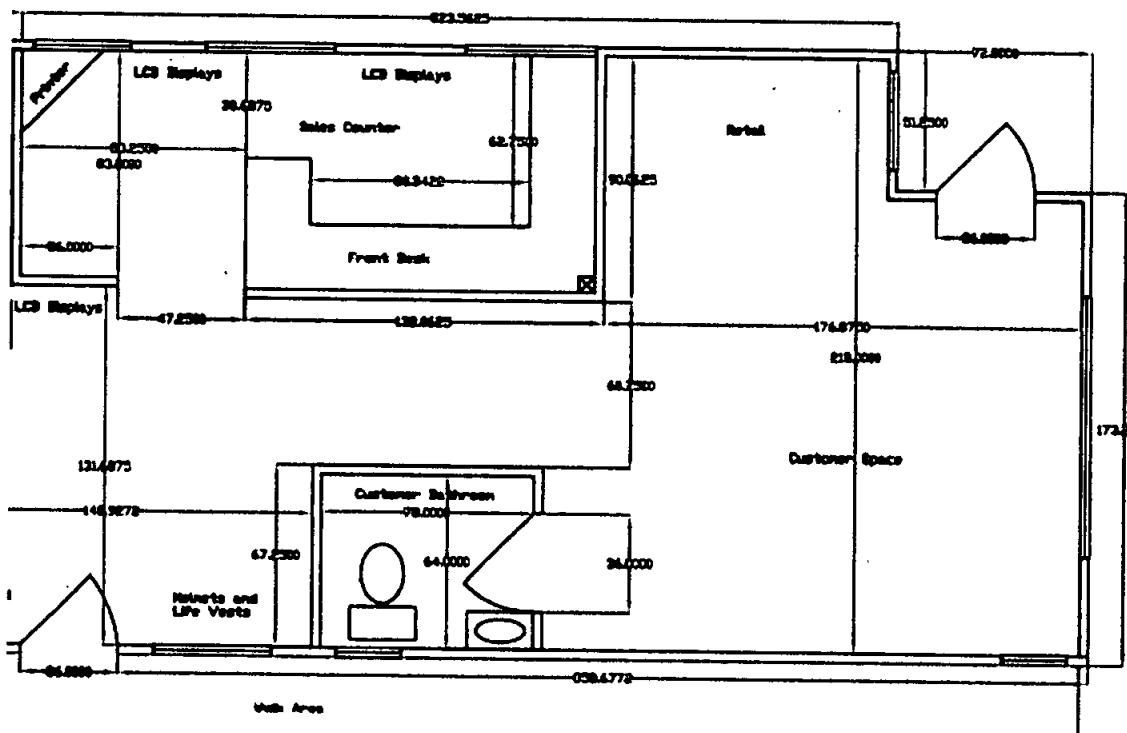
Closing staff park company vehicles in deliberate areas to not impede with local residents. Employees also take company vehicles to the nearby carwash to have vehicles washed when necessary to maintain a professional appearance.

COMPLYING WITH NEIGHBORHOOD CODES

All kayaks are stored inside of the SDBK's two locations. No kayaks are stored outside or in box trucks or trailers. The storage of kayak inventory indoors complies with the La Jolla Shores Planned District codes and is in keeping with the pristine appearance of the neighborhood.

2222 AVENIDA DE LA PLAYA
LA JOLLA, CA 92037

- RETAIL SPACE
- CUSTOMER SPACE
- CUSTOMER CHECK-IN AREA & FRONT DESK
- CUSTOMER RESTROOM
- OFFICE AREA
- LCD DISPLAY MONITOR FEATURING SURF REPORT
- DRY ERASE BOARD DISPLAYING SAN DIEGO SURF REPORT CONDITIONS



2222 AVENIDA DE LA PLAYA
LA JOLLA, CA 92037

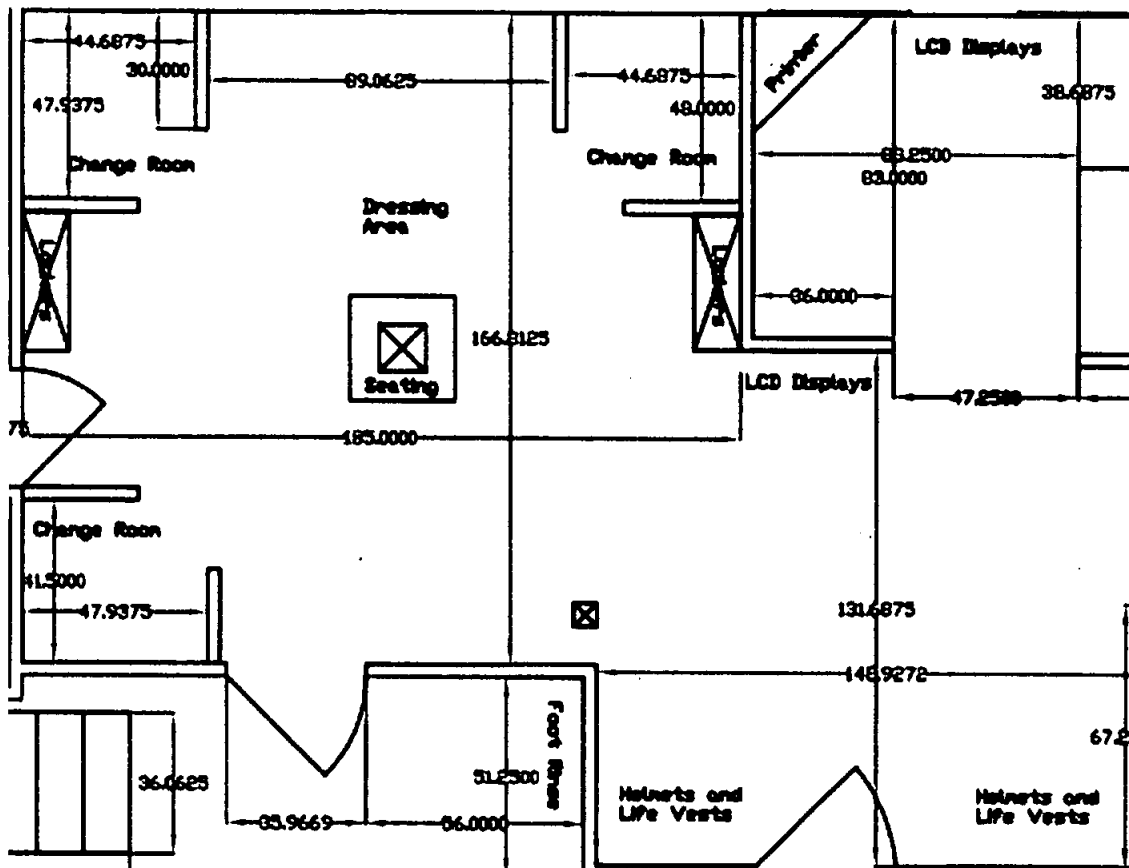
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SAN DIEGO BIKE & KAYAK TOURS, INC.
PRIMARY STOREFRONT SCHEMATIC
2222 AVENIDA DE LA PLAYA
LA JOLLA, CA 92037

PART 2: MIDDLE SECTION OF STOREFRONT

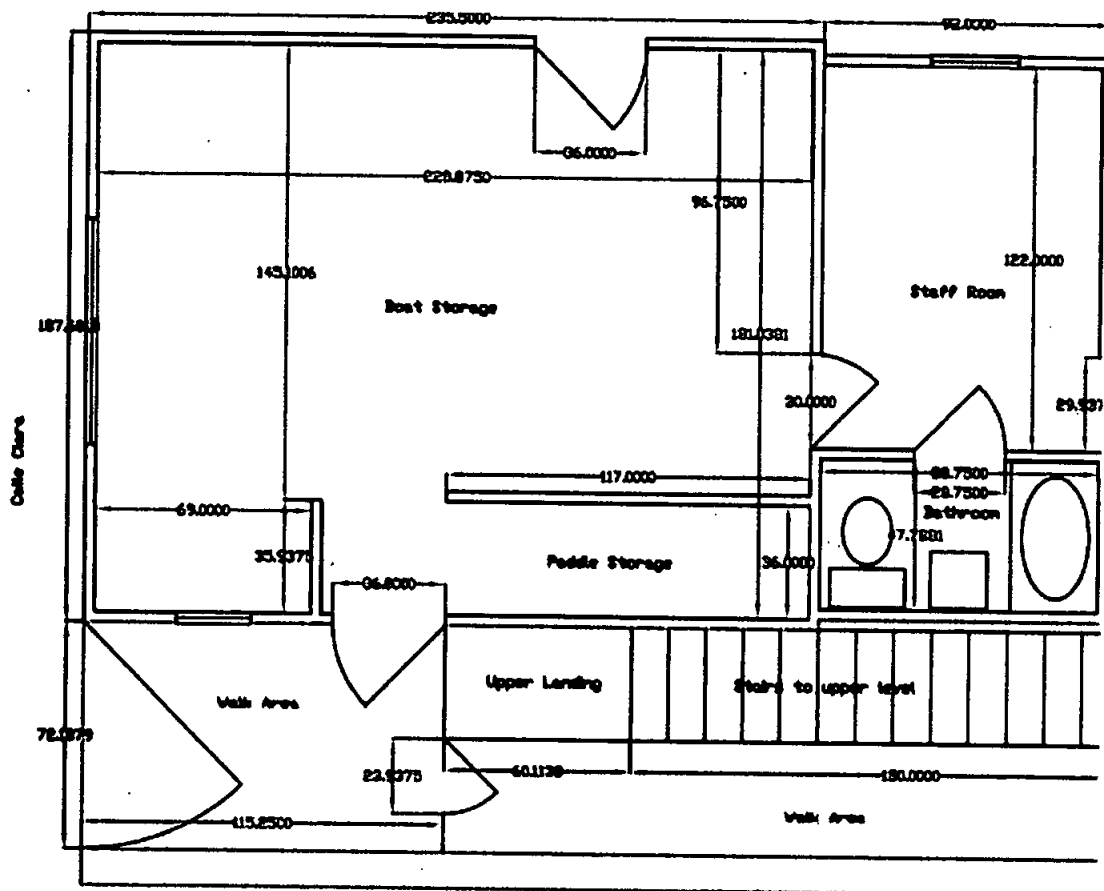
- LOCKER ROOM AREA
- CHANGING ROOMS
- LIFE VESTS & WALL-MOUNTED RACKS
- KAYAK HELMETS & FLOOR RACKS
- FOOT RINSE
- CUSTOMER SEATING
- LCD DISPLAY MONITOR FEATURING SURF REPORT
- LCD DISPLAY MONITOR FEATURING SAFETY & INSTRUCTIONAL VIDEO



**SAN DIEGO BIKE & KAYAK TOURS, INC.
PRIMARY STOREFRONT SCHEMATIC
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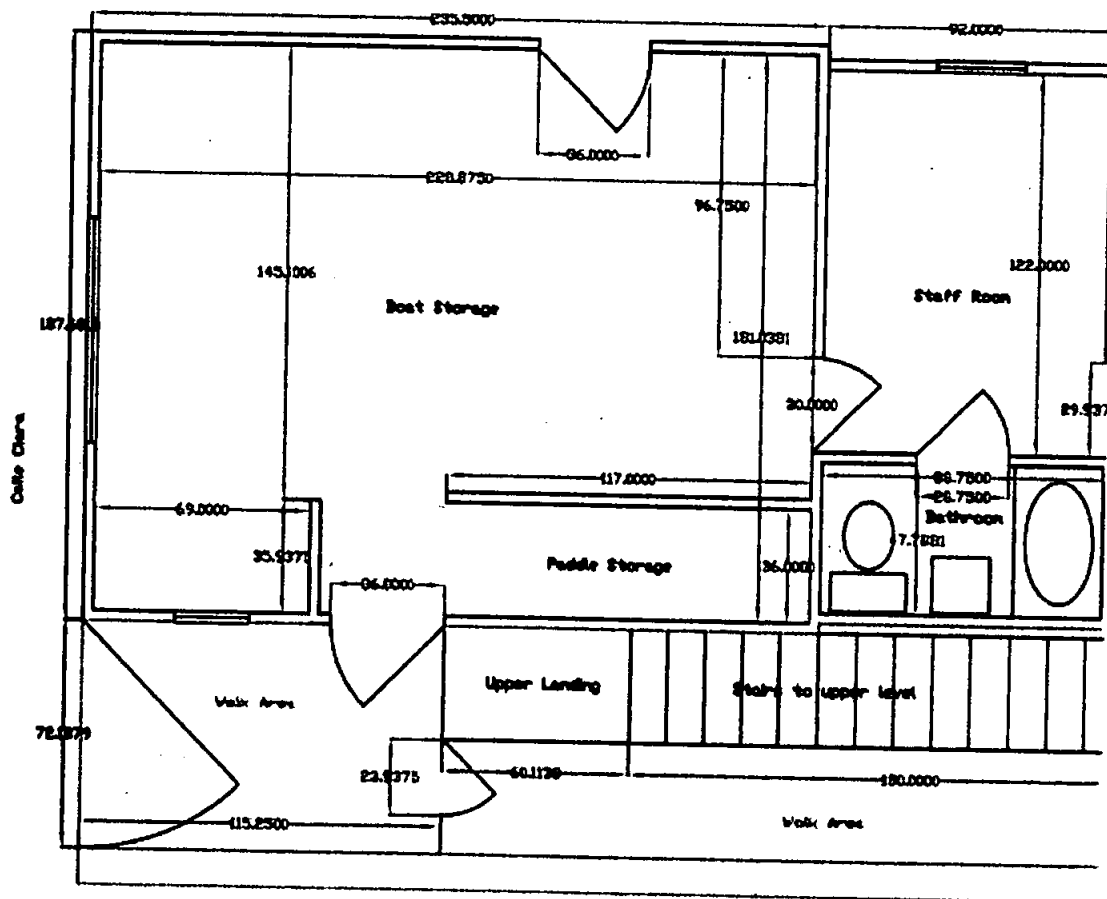
PART 3: REAR (NORTH) SECTION OF STOREFRONT

- KAYAK STORAGE ROOM
- STAFF ROOM
- EQUIPMENT/WETSUIT WASHROOM
- PADDLE STORAGE
- 20-MINUTE COMMERCIAL LOAD ZONE ON CALLE CLARA TO LOAD KAYAKS



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Operating Plan: Part III

Creative Parking Solutions to Minimize Impacts

San Diego Bike & Kayak Tours, Inc. has several existing programs to mitigate parking issues in La Jolla Shores and plans to include additional parking solutions to further promote alternative means of transportation. SDBK is committed to partnering with the local community to minimize the parking impact on other local businesses and residents with the following programs.

SHUTTLE SERVICES

SDBK utilizes its passenger vehicle to offer shuttle service for customers to limit the number of vehicles parking directly in the La Jolla Shores area. Shuttle service is offered on summer weekends to and from Mt. Soledad at 10 a.m., 1 p.m., 4 p.m. and 8 p.m. to accommodate SDBK's three daily combination bike and kayak tours in La Jolla. Shuttle service is also offered to and from Tidelands Park in Coronado at 9 a.m. and 5 p.m. and to and from Balboa Park by appointment to accommodate customers participating in SDBK's Coronado and Downtown bike tours respectively.

This complimentary shuttle service is made available to weekend customers participating in bike and kayak combined tours that spend the day with SDBK. Because there are so many weekend summer beach goers, parking in La Jolla Shores is difficult and frustrating, so it is more convenient and preferable for these patrons to park in these remote, underutilized public parking lots and get shuttled to the storefront and to their vehicles at the end of the day.

It is easy, efficient and reasonable for SDBK to offer these shuttle services since employees are driving the commercially insured passenger vehicle to each of these locations anyway for the start of the bike tours.

In 2009, SDBK plans to expand the shuttle service to include pick-up and drop-off service to additional locations including the La Jolla Gliderport, University Town Center, and the paid parking structure in downtown La Jolla on Jenner St.

Customers staying near UTC can walk to the pick up/drop off site and board the shuttle. Customers staying in downtown La Jolla or those just visiting for the day can pay to park in the structure on Jenner St. and then board the shuttle to avoid the hassle and time it takes to park in La Jolla Shores.

Customers coming from other areas can also park at the Gliderport, Balboa Park, Tidelands Park, and Mt. Soledad, and then get shuttled into La Jolla Shores to avoid parking frustrations and difficulties. This expanded shuttle service will help minimize the congestion on the local streets.

It is reasonable and convenient for SDBK to expand shuttle service because shuttle services are already offered in a smaller capacity. Customers have utilized this shuttle service in the past because of its convenience and availability, and the addition of new drop-off and pick-up locations to accommodate more customers will only expand the shuttle service and thereby reduce the number of cars parking in La Jolla Shores.

EMPLOYEE PARKING, CARPOOLING, & BIKE-TO-WORK PROGRAM

SDBK also offers a Bike-to-Work program for all employees. Employees that bike to work receive incentives for biking to work instead of driving and these bonuses are accumulated daily at a rate of \$5. In 2008, SDBK had a total of twenty-one participating employees, ten of which rode bikes to work nearly everyday for the entire summer.

Because of the high intensity and athletic nature of SDBK's staff, this program has been successful and SDBK plans to continue the program and involve even more staff in the future. SDBK allows employees that do not own a bike to check one out from the rental fleet to participate. SDBK also has a carpool board for employees, and SDBK coordinates scheduling for participating employees. Employee carpooling has been successful in the past since much of the staff lives in the nearby beach areas.

SDBK has a company policy stating that employees are not permitted to park within the immediate radius of the La Jolla Shores area. Employees are instructed to park on larger main roads and away from the nearby residential area. This policy is outlined in the Employee Handbook and reiterated in the Employee Code of Conduct.

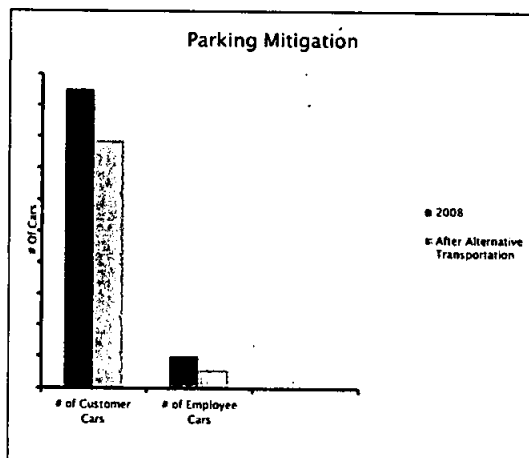
TAXICAB & BUS FARE FEE RECOVERY PROGRAMS

SDBK offers a taxi & bus fare fee recovery for customers. Customers that present bus vouchers receive a reimbursement in service fees for the full amount of the bus fare. Customers that present taxicab receipts can receive a partial reimbursement for taxi fare off of service fees.

HOTEL PARTNERSHIPS

SDBK partners with local hotels and concierge that offer hotel shuttle service, including the Hilton La Jolla Torrey Pines. SDBK is the vendor of choice for concierge at the Hilton La Jolla Torrey Pines and this hotel provides car service for guest transportation.

GRAPH ILLUSTRATING POSITIVE IMPACT OF ALTERNATIVE PARKING SOLUTIONS



SDBK estimates that one out of every five customers will utilize these alternative parking solutions with the addition of more shuttling sites based on previous usage. SDBK also estimates that nearly half of its employees will participate in these creative parking alternatives.

This graph illustrates the positive impact of these creative parking solutions to minimize vehicular congestion and reduce impact to the area.

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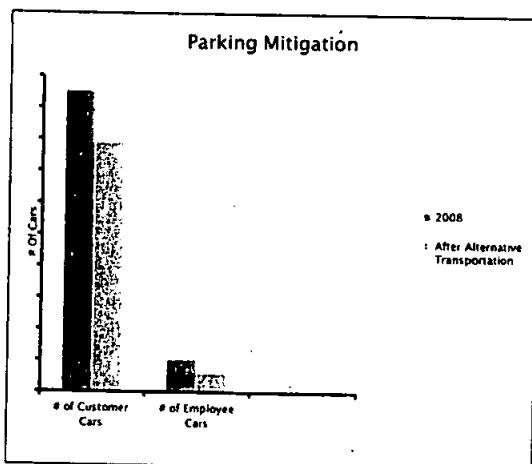
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Operating Plan: Part IV

Kayak Tour Operational Logistics & Safe Execution

Safe and quality kayak operations are of the utmost importance at SDBK. Proper operational logistics are necessary to create a professional operation that abides by boat launch rules, enforces the safety of the public, and minimizes the impact on the community to ensure a pleasurable environment for residents and tourists.

SDBK has developed specific operational logistics to execute commercial kayak operations in a manner that reduces impacts on the streets, at the boat launch, and in the water. This section outlines tour operational logistics and proper execution that fulfill concession requirements and demonstrate a partnership with the City of San Diego and the local community.

PRE-TOUR PROCEDURES

Each kayak tour is limited to a maximum of ten client kayaks and two guides. At the time of check-in, participants sign the appropriate forms and waivers, and are briefed as to what to bring or leave behind on the tour. SDBK storefronts house lockers, changing rooms, and a client restroom to minimize public facility usage. When participants are ready, they are fitted for appropriately sized helmets and personal floatation devices (PFDs).

Next, the tour participants watch a brief safety & instructional video inside of the storefront and are assigned to tour guides. The tour guides escort the tour group to the beach where the beach duty personnel, the kayaks, and paddles await. The accompanying guides keep the participants out of the way at the boat launch, as to maintain full accessibility for other boat launch users.

Prior to start of all tours, each tour guide gives an introduction, paddle instruction, kayak-maneuvering lesson, and safety briefing for all tour participants. This takes place within an area coned off on the beach that the San Diego Lifeguard Ambassadors designated in 2008.

During the paddle instruction, guides are expected to learn and memorize the names of tour participants. This aids not only in customer service, but also is extremely advantageous in the water, allowing the guide to directly and specifically address any customer in the water in case of emergency or as a warning to perilous conditions or areas.

BEACH OPERATIONS & EQUIPMENT TRANSPORTATION

At the start of each morning, typically between 8:00-8:30 a.m., staff members begin loading kayaks for the day's itinerary. At no time are employees permitted to park vehicles illegally to load or unload kayaks, as illegal parking creates the potential for vehicular collisions or injury to pedestrians and/or property. SDBK staff must use the yellow loading zones adjacent to each of its two shops to load or unload kayaks, as these zones are designated for commercial loading. Company vehicles will not be pulled into red zones, alleys, or otherwise illegal parking areas.

SDBK company trucks are readily identifiable, marked with the company logo and phone number. Both trucks used to transport kayaks to the beach are equipped with safety grates to protect employees and pedestrians. Both trucks have safety tie downs that are used any time the loaded

kayaks exceeds one level. The tie downs prevent kayaks from falling out of the truck, damaging cars or injuring pedestrians. Both trucks have four-wheel drive to prevent getting stuck in the sand at the boat launch. The trucks are registered, commercially insured, regularly maintained, smogged, and also are clean, well kept and free of trash and broken parts.

All employee drivers are licensed and registered as well as individually insured under the company's commercial auto insurance policy. Drivers are knowledgeable of all permit and boat launch rules and adhere to both the rules of the road as well as the traffic pattern at the boat launch. Drivers also are required to strictly adhere to the 5 M.P.H speed limit at the boat launch and drivers must maintain low speeds, driving cautiously and below the posted speed limit when trucks are loaded with kayaks on the streets.

At the boat launch, employees drop off the maximum number of permitted kayaks along with a paddle rack into the designated beach storage area. This early drop off eases congestion from unloading kayaks at the boat launch during peak times later in the morning.

Company vehicles will be parked on the beach at the boat launch for no more than five minutes in the designated "bays" the San Diego Lifeguard Ambassadors have established. Company vehicles will make a complete stop at the stop sign at the foot of the boat launch, and then engage four-wheel drive, before pulling onto the sand. If the established "bays" at the boat launch are full, company vehicles shall wait to pull onto the boat launch, in the loading zone at west end of Avenida De La Playa on the north side of the street. Trucks are always staffed with two employees, so that when the trucks are driving on the beach, one employee can exit the truck at the stop sign at the foot of the boat launch, to aid the safe navigation of the vehicle.

At no time is more than one company truck permitted on the beach; the truck drivers designated to each truck communicate via two-way radios to ensure adherence to this company policy. Before exiting the boat launch, the truck drivers circle around the entire truck to look for equipment, pedestrians, holes in the sand or other obstructions before returning into the truck to drive away.

Dropping off kayaks early in the morning limits the need for constant replenishment at peak times, minimizing the number of vehicular trips to the beach and traffic along Avenida de la Playa. Fewer vehicular trips up and down the street also minimize the amount of sand tracked onto the streets. The exact number of kayaks are dropped off or dragged to the water line fifteen minutes prior to the start of each tour, so the kayaks are ready for immediate usage as soon as the paddle instruction is complete; this measure avoids congestion at the boat launch and keeps the designated paddle instruction area freely moving.

It is the policy of SDBK to politely reject any volunteered help from customers with regard to loading or unloading kayaks on or off the trucks. This is to prevent customers from incurring any injuries from inexperience with handling kayaks in this fashion.

SDBK exercises due diligence when retrieving kayaks by adhering to the fifteen minute limit for kayaks to be placed on the beach. SDBK staffs beach duty personnel daily to manage kayaks departing and returning and adhere to the necessary timeliness of kayak retrieval. SDBK also adheres to the rules permitting only twelve kayaks to be delivered to the area at a time, and only

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twelve kayaks in usage within the immediate La Jolla Shores Boat Launch area at any given time. SDBK beach duty personnel manage these rules with two way radio contact to staff driving trucks and tour guides in the water. The beach duty personnel give clearance for tours to come in only when the water's edge is clear of other kayaks and trucks pulling onto the beach are free of kayaks to ensure adherence to this rule.

TOUR LAUNCHING

Once the paddle instruction is completed within the designated area at the beach, the tour guides walk with the tour group to water's edge, along the exterior boundary of the boat launch for tour departure.

Guides ensure that customers are not walking through the boat launch to inhibit traffic or disrupt operations, and the guides walk the group in a deliberate 90-degree angle from the instruction area north toward the edge of the boat launch boundary and then down toward the water line. This path is used even at lower tides when it is tempting to walk through the boat launch because of so much exposed beach.

The leading tour guide always paddles out toward the boat launch buoys and sets up the initial meeting point beyond the surf zone. One of the guide's kayaks is always the first into the water to ensure constant supervision of the tour and to eliminate any moment where the tour members would be without aid in the case of an emergency.

At the boat launch, the additional guide and beach duty staff assist the kayakers through the surf safely, keeping them out of the adjacent swimming areas and avoiding dangerous collisions with other kayakers or ocean goers, the major cause of accidents in the La Jolla kayaking area.

TOUR DEPARTURE

Once the tour group has met safely outside the boat launch buoys, the guides reiterate previous paddling instructions along with safety policies, paddle signals, and tour rules. The guides also explain the safety and hierarchy of water participants, informing the tour that swimmers, snorkelers, scuba divers and waders have the right of way. Proper placement in relation to the guide kayak(s) is also covered, as the guide should always be the closest person and kayak to the shore, cliffs, waves, or rocks, creating a buffer zone between the tour and any perilous areas.

Additionally, guides explain that it is imperative for kayaks to be facing the proper direction during any stops along the tour, and the guides enforce the rule of keeping the group facing in a defensive position to oncoming swells and/or towards the open ocean to view any incoming weather or waves for safety purposes. The guides also make safe and responsible decisions as to where to set up the group along the cliffs during narrative pauses, according to the tide, surf, and weather, always keeping them well out of harm's way.

TOUR PROCEDURES

The paddling route for the tour is adjusted constantly, as the weather dictates the actions of the guides. The guides are the decision makers in the water, and they are always observing and reevaluating their surroundings. SDBK emphasizes action instead of reaction during guide training

and each guide is fully qualified and knowledgeable to accurately read the water and weather conditions.

Guides assess, appropriately adjust to, and avoid approaching conditions, instead of just responding to imminent danger or perilous areas/conditions. Tour guides take wider routes from shore at lower tides, and change their directions depending on the angle that the swell is approaching the shoreline. If the wind is blowing in one direction, the guide must adjust the pace of paddling to ration the strength and stamina of the tour participants. Although these are small details, they have rather large ramifications if ignored or neglected. Safety is paramount because there is so much involved, and our guides actively engage in preventing water emergencies.

Beyond the boat launch, the most precarious area when kayaking is along the caves and the north facing sea cliffs on the southern border of the Ecological Reserve. This area is generally affected by northern swells (waves that come from the north or northwest) but due to the curvature and formations on the bottom of the ocean, certain southern or western directional swells can curve or turn, wrapping around the western point of La Jolla Cove, sending waves into the sea cave area. The rocks, barnacles, caves, and breaking waves can combine to cause variety of hazards, if one is not conscious of the dangers. This unique feature about La Jolla can make the sea caves a potentially dangerous area at any time to an uninformed visitor.

As the guides lead the tour toward the caves, they are constantly surveying the water for signs of incoming or breaking waves. Steering clear of Devil's Slide (a rocky reef section infamous for shallow breaking waves), the guide sets aim towards the safest area along the cave cliff line. Keeping the tour at a safe distance away from the barnacle covered rocks, the guide stops the group toward the western end of the caves, away from the eastern corner of the cliff, which often catches the brunt of the larger surf.

Safe viewing and exploring of the cave area is the primary concern, so tour guides spend hours in the water along the cliff to familiarize themselves with potentially dangerous rocks, sharp barnacle beds, hazardous formations below the water, wildlife behaviors, emergency response accessibility, and much more.

All of this information equips the guides with the knowledge and purpose behind their actions. Tour guides know not just what they are doing, but why they are doing it.

All of the tour guides are trained in the proper procedures for safely taking clients into the Clam's Cave and occasionally the Arch Cave. If the conditions permit, the tour guide will accompany one kayak into the cave at a time to ensure safety. Because there are usually two guides on every tour, one tour guide paddles with each kayak into the cave to maintain full and deliberate control of the client's kayak. Each participant will paddle while the bow of the guide's kayak is steering the participant's boat safely in and out of the caves. This BCU tactic enables quick and controlled turning of the client's kayak in the event that kayak needs to be repositioned or moved out of the cave. Not only does this skill allow the guide to safely maneuver the kayak in the cave, it also protects the Ecological Reserve, as many unaccompanied, inexperienced kayakers will hit their kayaks against the walls of the caves, damaging these brittle sandstone formations. Meanwhile, the

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additional guide is outside the cave with the rest of the group, monitoring the water conditions and helping the other tour guide get customers in and out of the cave quickly, safely, and efficiently.

ADHERENCE TO SWIM LANES & NO KAYAK ZONES

When leaving the cave area, the guides direct the tour as to keep kayaks out of the designated swimming lane outstretching from La Jolla Cove for a half mile, marked by buoys. This prevents kayak to swimmer injuries, and ensures fair usage for all the areas of the Ecological Reserve. SDBK touring kayaks stay at least 100 yards outside of La Jolla Cove, do not cross the boundaries of the Swimming Lane, and never head south of Point La Jolla, as the beaches to the south are "No Floatation Device" zones.

Throughout the kayak tour, the guides' constant directional movement when paddling helps the tour participants further familiarize themselves with their paddling and kayak control. This not only makes the visitors more accomplished paddlers, it is preparation for returning to the shallow sandy shoreline where waves often break. The ability to maneuver the kayaks in crowded, moving water and the comprehension of when it is necessary drastically cuts down the potential for collisions.

The waters directly in front of the La Jolla Beach & Tennis Club and north of the Boat Launch at La Jolla Shores are off limits to all kayaks, so SDBK tour guides lead their participants throughout the Reserve, avoiding these areas to ensure safety.

PROCEDURES FOR VIEWING THE LEOPARD SHARKS

In the warm water months typically from May through October, leopard sharks inhabit the shallow sandy flats of the southern part of the Ecological Reserve. Always a crowd favorite, these sharks attract swimmers, waders, snorkelers, scuba divers, and kayakers into a small, wavy area. While the different groups of water users have their own designated areas, many find themselves collecting in this area to view the breeding leopard sharks. The constant movement of these leopard sharks often times lures swimmers into areas shared by kayakers or sometimes in areas that are for boat usage only (the water directly in front of the boat launch). However, swimmers and snorkelers always have the right of way, so the tour guides dictate a safe path, consciously avoiding these other water users. Occasionally, skipping the viewing of these leopard sharks to avoid collisions with swimmers and other water users is the only safe procedure.

In order to view the leopard sharks, kayakers must paddle parallel to the shoreline. Paddling in such a manner allows for greater visibility and range for finding these creatures, but can leave a kayaker in a vulnerable position if unprepared for waves. To combat such problems, the guides stop the group west of the surf line on the southern end of La Jolla Shores Beach before venturing into the shallow waters. The tour guides explain the behavioral patterns of the leopard sharks in conjunction with how to properly and safely observe these majestic creatures.

The guides lead the group in a long, spread out, single file line, with one guide up front, and one sweeping along the eastern edge of the group, watching for waves, aiding in turning kayaks that have trouble adjusting to waves, and creating a buffer between the kayaks and any other water users. The formation of a single file line is advantageous because it decreases the potential for kayak-to-kayak collisions. Since the kayaks are not side-by-side, if one kayak gets turned towards the shore, there

will be no domino effect, allowing the one kayak to glide towards the shore followed by a guide kayak. If the kayaks paddled together in a congested pod, one kayak could end up knocking several kayaks to shore, creating confusion and possible collisions. This type of incident is completely preventable, and tour guides understand that any kayak-to-kayak, or kayak-to-swimmer collision is simply unacceptable. Therefore, erring on the side of caution, the guide leads the line, and will curve it out and away from any grouping of swimmers, and turn the group out towards the open ocean in the event of breaking waves.

RE-ENTRY TO THE BOAT LAUNCH

As the tour group returns to the white buoys marking the boundary of the boat launch, the guides radio to the beach duty personnel for clearance to land the kayaks. The potential for collisions increases as the numbers of kayaks in the boat launch increases, and the combination of launching and beaching simultaneously can be quite hazardous.

The beach duty personnel will notify the group of when and where to return to shore in a safe manner, keeping the number of kayaks on the boat launch sand under its maximum limit at all times. Beach duty personnel also stake out and communicate a clear area for the incoming kayaks to land before granting permission to tour guides. Sometimes, a tour may wait in the water outside the boat launch buoys for ten minutes if necessary to ensure a clear, safe path for re-entry.

While waiting for clearance to re-enter the boat launch, the tour guides explain how to safely return to shore through the waves and what to do in the event that the kayak capsizes. Tour guides also point out the boundaries of the boat launch and the potential hazards including outbound kayakers, swimmers, the no kayak zones directly to the north and south, and tour guides clearly explain the precise, exact location of re-entry that is safe and clear.

Once a clear area free from outbound kayakers is available, the beach duty personnel will grant clearance and move to the precise point of re-entry to provide a visual entry point for the incoming tour participants.

One tour guide returns to shore first to demonstrate how to safely return through the surf, while the other tour guide remains in the water with the tour group. Upon landing ashore, the beach duty personnel and the additional guide will assist customers coming in to shore by standing knee to chest deep in water to collect returning kayaks to prevent them from colliding with other kayaks or from capsizing. The other tour guide in the water sends one participant kayak to shore at a time, while reiterating how to safely maneuver and turn their kayaks while through the waves.

PROCEDURES TO AVOID COLLISIONS

A kayak riding on a wave will pick up significant speed and often lose control. The majority of the time, a guide situated in the shallows is better suited than the tour participant themselves for stopping or slowing the kayak. This helps avoid collisions or landings in no kayak zones. Tour guides and beach duty staff always expect and prepare for the worst in order to actively prevent any potential collisions or unnecessary capsizing. The beach duty personnel and beached tour guide seek to assure the safety and enjoyment of all the customers, beach users, private kayakers, boat launch users, and customers and staff of other commercial operations.

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The beached tour guide and beach duty personnel act as a team, keeping the tour participants and other boat launch users out of harms' way by wading into the water to redirect and catch incoming kayaks before they return all the way on shore, and stacking those kayaks neatly on the beach.

PROTOCOL UPON TOUR RETURN

As the tour group returns to the beach one kayak at a time, the kayaks are neatly stacked out of the way at the water's edge, allowing a clear passageway for emergency vehicles. Each tour participant returns his/her paddle to the paddle rack located in the designated beach storage area.

The beach duty personnel then ensure that kayaks are either stacked neatly out of the way for the next group to use in fifteen minutes or less, or returned to the designated kayak storage area along the seawall. If kayaks need to be returned to the kayak storage area, the beach duty personnel drag the kayaks in the same 90-degree angle around the water's edge and up along the northern boundary of the boat launch to avoid disruption of boat launch activity. SDBK's staff perpetually exercises this courteous drag pattern to minimize congestion at the boat launch and avoid vehicular disruption.

The tour guides then accompany the tour participants back to the storefront, leaving the boat launch by hugging the seawall outside of the cones to stay out of the way of the boat launch. The group is instructed as to the location of the nearby public showers if they so need them, and the group then proceeds to walk along the northern, paved sidewalk, out of the way of vehicles driving down the street.

Upon returning to the storefront, returning customers are greeted by staff in the shop ready to provide customer service. These staff members assist with quick return of life vests and helmets and provide any needed assistance with lockers, restroom location, in-store foot rinse location, or plastic bags for wet clothing. These employees also assist with keeping customers as quiet as possible and within the confines of the facility, as though not to disturb neighboring businesses or residents.

The facilities and amenities in the store allow customers to dry off, change, and use the restroom within the storefront, avoiding the unnecessary usage of public facilities or the disruption of the community. SDBK's in-store foot rinse also enables customers to rinse the sand of their feet to prevent this sand from being tracked along the sidewalk or streets. With the beach and the storefront clear, the tour process is completed, and the guides and employees prepare for the next tour to check in.

Although these operational details for the kayak tour execution may seem trivial, it is ultimately these details and logistics that make SDBK a truly professional operation. SDBK's policies and strategies continually abide by boat launch rules, working to ease congestion at the boat launch and minimize the impact to the neighborhood.

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08 NOV 17 PM 3:21

REAL ESTATE ASSETS DEPT

CITY OF SAN DIEGO

REAL ESTATE ASSETS

1200 Third Avenue, Suite 1700

San Diego, CA 92101-4195

REQUEST FOR PROPOSAL

Subject: Kayak Concessions

FOR CONSIDERATION AS A RESPONSIVE PROPOSAL, THE FOLLOWING INFORMATION (as specifically described in the RFP) IS REQUIRED:

- 1) Description of Proposed Operations (see page 5)**
- 2) Resume/Summary of Proposer's Experience**
- 3) References**
- 4) Financial Statements or Tax returns for the last three (3) years signed by Proposer and Financial Representative**
- 5) Credit Information**
- 6) Summary of Employees Qualifications**
- 7) Emergency Response Plan**
- 8) Community Service**
- 9) Deposit (cashier's or certified check \$2,500 payable to City Treasurer)**
- 10) This cover page must be signed with an original signature**
- 11) Proposal must be submitted on or before the exact closing date and time. Proposal received after the exact closing date and time will NOT be considered.**

Company: San Diego Bike & Kayak Tours, Inc.
[PRINT OR TYPE]

Federal Tax I.D. No. 41-2202988

City of San Diego Business License #: B2004005672

Street Address: 2222 Avenida De La Playa

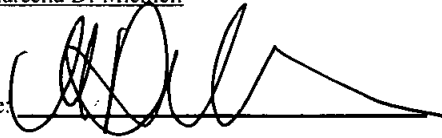
City: La Jolla

State: California

Zip Code: 92037

Tel. No. (858) 454-1010 Fax No. (858) 731-4982

Name: Marcella Di Michieli

Signature: 

Title: President

Date: November 16, 2008



Cover Letter

RECEIVED
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08 NOV 17 PM 3:31

REAL ESTATE ASSETS DEPT.

October 14, 2008

The City of San Diego
Real Estate Assets Division
1200 Third Ave., Suite 1700
San Diego, CA 92101

ATTN: April McCusker and Patti Phillips

re: Kayak Concessions at La Jolla Shores Public Boat Launch
Request for Proposals (RFP)

Dear Honorable Mayor, Park & Recreation, Lifeguard Services and Real Estate Assets:

We respectfully submit this proposal for Kayak Concessions at the La Jolla Shores Public Boat Launch for the maximum available term. As a current, qualified kayak operator specializing in guided tours of the La Jolla Ecological Reserve, San Diego Bike & Kayak Tours, Inc. is pleased to present this response to your Request for Proposals.

San Diego Bike & Kayak Tours, Inc. (SDBK) submits this proposal for consideration for the maximum suggested fifteen (15) tour times for the Agreement. SDBK is also proposing an optional Addendum for additional consideration beyond the proposed operations.

SDBK will provide operational expertise, comprehensive Water Safety & Emergency Response Plans, and creative solutions to mitigate community concerns, creating a great partnership with the City of San Diego (CITY) and the local La Jolla Shores community. As the industry leader in guided kayak tours, SDBK has a strong history of operating safe, enjoyable, and professional commercial kayak operations.

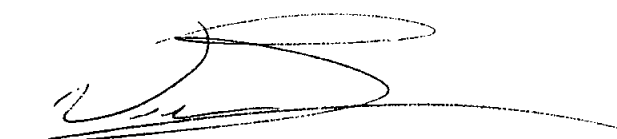
By selecting SDBK as a kayak concession within the scope of these proposed operations, the CITY is accomplishing the main RFP goals of ensuring safety, minimizing impact to the community, easing congestion in the area and at the boat launch and protecting the consumer.

SDBK is equipped with the professional experience, financial strength, safety standards, operational systems and procedures, and historical record to continue operations under the new reduced structure while also maximizing revenues for the CITY and reducing impact to the area. SDBK also has a history of community service with local programs and site-specific contributions that demonstrate our company's integrity and commitment to preserving this great public resource.

We thank you for your consideration.

Sincerely,


Marcella A. Di Michieli, President


Nick A. Bauman, Vice-President