

CONCESSION AGREEMENT

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

1. Incorporated Documents. This Agreement is created pursuant to the City of San Diego REQUEST FOR PROPOSAL ("RFP") for Surf Instruction Concessions issued by the CITY on January 14, 2019, and CONCESSIONAIRE's proposal in response to the RFP, dated February 4, 2019. Attached and incorporated herein are the following documents: **Exhibit A: Map of Sites; Exhibit B: Operating Plan; Exhibit C: Lifeguard Services Safety Requirements.** Additional terms and conditions listed in the RFP may also apply throughout the term of the Agreement.
2. Right to Enter. Subject to the terms and conditions of this Agreement, CITY hereby grants permission to CONCESSIONAIRE, its employees, agents and contractors to operate Concessions within CITY beach sites ("Site(s)") designated by the CITY. The locations of the Sites included under this Agreement are designated below.

Area/Beach	Sites
La Jolla	#13 La Jolla Shores

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

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

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

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

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

9. Special Provisions

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

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

- D. No Improvements. No improvements, trade fixtures, structures, and installations or additions to the Sites are allowed to be installed by CONCESSIONAIRE. All personal property remaining on the Sites after expiration or termination will become the property of CITY.
- E. Maintenance of Sites. CONCESSIONAIRE agrees not to commit or allow to be committed any waste or injury or any public or private nuisance, to keep the Sites clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in or about said Sites to the satisfaction of CITY and at CONCESSIONAIRE's sole cost. All Sites must be cleaned up daily by CONCESSIONAIRE or more often, as required.
- F. Standard of Employees. CONCESSIONAIRE and its employees will at all times conduct themselves and the operation of the Concessions in a respectable and courteous manner. CONCESSIONAIRE will thoroughly train its employees in their duties and will regularly monitor its employees to ensure that they behave in a courteous manner, do not disturb the quiet enjoyment of other beach users, and otherwise comply with all requirements of this Agreement.

10. Fees. CONCESSIONAIRE is required to pay to CITY, on a monthly basis, the greater of either the Percentage Fee ("Percentage Fee") or the Minimum Fee ("Minimum Fee"), as described below. In the event that the combined total amount of fees paid by CONCESSIONAIRE during any Agreement Year equals or exceeds the annual Minimum Fee for that Agreement Year, then CONCESSIONAIRE will only pay the Percentage Fee each subsequent month until either a new Agreement Year begins or this Agreement ends.

- A. Percentage Fees. Percentage Fees will consist of sixteen percent (16.00%) of the gross income resulting from the Concession operations permitted under this Agreement during each month of an Agreement Year. The CITY, in its sole discretion, may approve another percentage rate or minimum rate for each other incidental service or operation supplementary to the permitted uses stated in Section 3, as may be approved in writing by the CITY prior to the commencement of any additional service or operation. However, any activity conducted on the Sites without the prior written approval of the CITY will be subject to the requirements of Section 10.E.
- B. Minimum Fee. The annual Minimum Fee established for the first Agreement Year following the Effective Date is \$31,486.20, which is

\$2,623.85 on a monthly installment basis. The monthly Minimum Fee is to be paid in monthly installments on or before the day of the calendar month when the Percentage Fee is due pursuant to Section 10.J.

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

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

described in Sections 10.B and 10.A.

H. Inspection Of Records.

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

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

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

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

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

- I. Default. CONCESSIONAIRE's failure to keep complete and accurate records by means of double-entry bookkeeping and failure to make them available for CITY inspection is, like all other failures to comply with covenants of this Agreement, a material breach of this Agreement and good cause for termination.
- J. Time and Place of Payment. Payments are due on or before the last day of the calendar month following the calendar month in which the Gross Revenue subject to the Percentage Fee was earned. Checks will be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 129030, San Diego, California 92112-9030, or delivered to the Office of the City Treasurer, Civic Center Plaza, 1200 Third Avenue, First

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

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

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

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

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

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

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

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

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

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

- M. Causes of Loss - Special Form Property Insurance. CONCESSIONAIRE will obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of CONCESSIONAIRE's insurable property related to the Allowed Uses of the Site under this Agreement or the Site in an amount to cover 100 percent (100%) of the replacement cost. CONCESSIONAIRE will deliver a certificate of such insurance to CITY's Real Estate Assets Department
17. Indemnification. CONCESSIONAIRE will defend, indemnify, and hold City and its elected officials, officers, employees, representatives, and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to CONCESSIONAIRE's officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this Agreement or CONCESSIONAIRE's occupancy, use, development, maintenance, restoration, or improvement of the Sites, and all expenses of investigating and defending against same, including without limitation attorneys' fees and costs; provided, however, that CONCESSIONAIRE's duty to indemnify and hold City harmless will not include any established liability arising from the sole negligence or willful misconduct of City and its elected officials, officers, employees, representatives, and agents. City may, at its own discretion, conduct the defense, or participate in the defense, of any claim related in any way to this indemnification. If City elects to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, CONCESSIONAIRE will pay the City for all costs related thereto, including, without limitation, reasonable attorneys' fees and costs.
18. Nondiscrimination. This Agreement is made and accepted upon and subject to the covenant and condition, which will run with the land, that CONCESSIONAIRE or any person claiming under or through CONCESSIONAIRE will not establish or allow any discrimination against or segregation of any person or group of persons on account of race, color, religion, gender, gender identity, gender expression, disability, sexual orientation, marital status, national origin, ancestry, familial status or source of income in the possession, use or occupancy of the Sites or in the selection, location, number, use or occupancy of tenants, subtenants or vendees in the Sites.
19. Local Business and Employment. CONCESSIONAIRE acknowledges that CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. CONCESSIONAIRE will, to the extent legally possible, solicit applications for employment, and bids and proposals for

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

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

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

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

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

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

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

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

law; or

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

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

- B. Safety Violations by CONCESSIONAIRE. Notwithstanding subsection A above, in the event CONCESSIONAIRE will default in the performance or fulfillment of any covenant or condition required by this Agreement to be performed or fulfilled by CONCESSIONAIRE, including any covenant or condition in CONCESSIONAIRE's Operating Plan, and said default by CONCESSIONAIRE consists of any violation of municipal, state or federal law, or any covenants or conditions in CONCESSIONAIRE's Operating Plan or Lifeguard Services Safety Requirements that, in CITY's sole discretion, relate to public safety ["Safety Violations"], CITY may, at its option, require CONCESSIONAIRE to immediately cure said default, or, without further notice or demand upon CONCESSIONAIRE or upon any person claiming rights through CONCESSIONAIRE, suspend or revoke this Agreement.

- C. Abandonment by CONCESSIONAIRE. In the case that CONCESSIONAIRE breaches this Agreement and abandons the Site, this Agreement will continue in full force and effect for so long as CITY does not terminate this Agreement, and CITY may enforce all its rights and remedies under this Agreement, including, but not limited to, the right to recover the Concession fee as it becomes due, plus damages. For purposes of this section, the following do not constitute a termination of CONCESSIONAIRE's right to possession or operation:

- i. Acts by CITY of maintenance, preservation, or efforts to negotiate a new Agreement.

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

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

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

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

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

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

- F. Notice of Release. If CONCESSIONAIRE knows or has reasonable cause to believe that a Hazardous Substance or petroleum related substance or its chemical constituents has been released on, from or beneath the Sites, CONCESSIONAIRE will immediately notify CITY and any appropriate regulatory or reporting agency in compliance with California Code of Regulations Title 19 and all other applicable laws or regulations. CONCESSIONAIRE will deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If CONCESSIONAIRE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, CONCESSIONAIRE will take all actions necessary to alleviate the danger. CONCESSIONAIRE will immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Sites.
- G. Environmental Assessment. Upon reasonable cause to believe that CONCESSIONAIRE's occupancy, use, development, maintenance or restoration of the Sites ("CONCESSIONAIRE's Operations"), resulted in any Hazardous Substance being released on, from or beneath the Sites, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment will be obtained at CONCESSIONAIRE's sole cost and expense, and will establish what, if any, Hazardous Substances have more likely than not been caused by CONCESSIONAIRE's Operations on, in, from or under the Sites, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by city, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Sites, then the environmental assessment will include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. CONCESSIONAIRE will cause, or if CONCESSIONAIRE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, CITY may cause the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Sites and compliance with environmental law and regulations are achieved, and CONCESSIONAIRE will pay all costs and

expenses therefor.

39. Storm Water Pollution Prevention Program. CONCESSIONAIRE will comply with the CITY's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the San Diego Municipal Code, as may be amended, and any and all applicable Minimum Best Management Practice requirements, as defined in the City's Jurisdictional Runoff Management Plan, in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of CITY regardless of location.

A. CONCESSIONAIRE will comply with the CITY's Jurisdictional Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within CITY boundaries as adopted by the CITY's City Council on July 1, 2015, via Resolution No. 309791, as may be amended.

B. CONCESSIONAIRE will comply with each CITY facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

40. Waiver. The property constituting the Sites is publicly owned and held in trust for the benefit of CITY's citizens. CITY's failure to insist upon the strict performance of any of CONCESSIONAIRE's obligations under this Permit, in one or more instance, will not be construed as a waiver of any such obligation, and the same will remain in full force and effect. CITY's waiver of a default will not be a waiver of any other default. Any waiver of a default must be in a writing executed by CITY to constitute a valid and binding waiver. CITY's delay or failure to exercise a right or seek a remedy will not be deemed a waiver of that or any other right or remedy under this Agreement, at law, or in equity. The exercise of any particular right or the use of any particular remedy for any default will not waive the use of any other right or remedy for the same default or for another or later default. CITY's acceptance of any rents will not be a waiver of any default preceding the rent payment. CITY's failure to discover a default or take prompt action to require the cure of any default will not result in an equitable estoppel, but CITY may at any and all times require the cure of the default.

41. Survival. Any obligation which accrues under this Agreement prior to its expiration or termination will survive such expiration or termination.

42. Joint and Several Liability and Responsibility. If CONCESSIONAIRE includes more than one person or legal entity, each such person and legal entity will be jointly and severally liable and responsible for the performance of each and every obligation of CONCESSIONAIRE under this Agreement.

43. Partial Invalidity. If any term, covenant, condition, or provision of this Agreement

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

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

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

CONCESSIONAIRE:

HLS VENTURES, LLC
DBA EVERDAY CALIFORNIA
2246 AVENIDA DE LA PLAZA
LA JOLLA, CA 92037

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

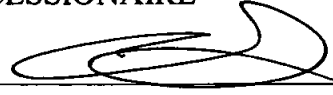
required for CONCESSIONAIRE's occupancy, use, development, or maintenance of the Sites.

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

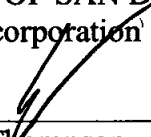
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IN WITNESS WHEREOF, this Agreement is executed to be effective as of the Effective Date.

CONCESSIONAIRE

By: 
Name: CHRISTOPHER LYNCH
Title: MANAGING PARTNER

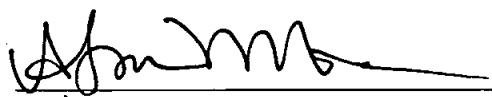
THE CITY OF SAN DIEGO, a California
municipal corporation

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

Environmental Analysis Section Environmental Clearance:

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

Date: 5/24/19

BY: 
Name: Alyssa Muto
Planning Department

Approved as to form this

14 ^{NJB} ~~26~~ Day of May, 2019

MARA W. ELLIOTT, City Attorney

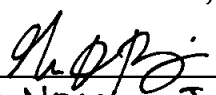
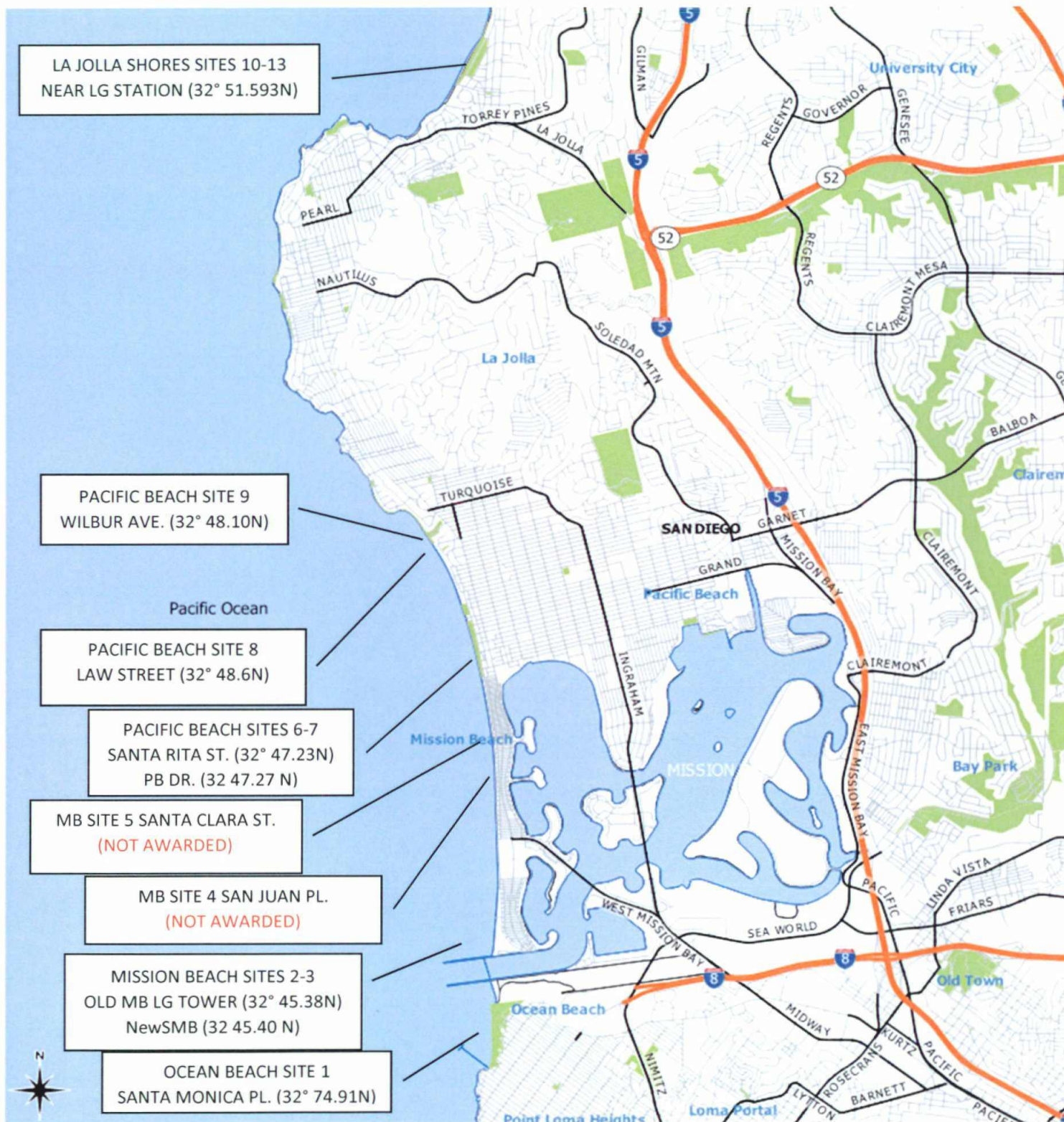
BY: 
Name: NOAH J. BRAZIER
Title: Deputy City Attorney

EXHIBIT A: MAP OF SITES





\$12.5 million in revenue. Over 250,000 people safely in the water. And that's just in the last five years. Everyday California has become the premier destination for adventure tourism in San Diego and the pride of the local community. We leveraged our success in providing adventurous ocean experiences to catapult an up-and-coming lifestyle brand. What started as a simple hat and t-shirt has blossomed into an iconic representation of the beauty of La Jolla and a love of the ocean. Everyday California continues to grow, enabling more people to enjoy our ocean, to represent San Diego and promote California tourism and culture both near and far.

We've had the former Governor, Arnold Schwarzenegger himself, sporting our logo while promoting fitness and healthy living. We've hosted countless journalist, professional athletes, influencers and media personalities on tours and rentals to promote tourism. Our brand is growing, carrying with it the spirit of La Jolla, San Diego, and California at large, to places we'd never even thought possible. Our logo is the perfect reflection of our company and culture; Brutus 'The Bear' holding a surfboard.

Brutus is on every piece of gear with every person we take out in the water. Brutus is represented on hundreds of styles of apparel, sold online, in our flagship store and in hotels throughout our great state in amazing numbers. And he's loved by every partnership Everyday California fosters. From reimagining the food system with GreenWave to helping to save the environment with 1% for the Planet, Brutus and his surf board represent Everyday California proudly. And now Brutus 'The Bear' himself wants to help teach the wonders of surfing to the world.

We're excited to present the following proposal to the City of San Diego. Everyday California has enjoyed the privilege of successfully operating adventures out of La Jolla Shores for many years, and looks forward to continuing to do so by adding the operation of a Surf Camp and School Concession to our growing company!

E1

OPERATING PLAN

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E1

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OPERATING PLAN PART I

GENERAL OPERATING PLAN

MAY 1, 2019 - APRIL 30, 2020

DAYS & HOURS OF OPERATION

EDCA proposes operating hours of 8:30 am to 6:00 pm everyday throughout the year for land operation, with all water instruction to be conducted between the hours of 9:00 am and 5:00 pm per the RFP guidelines. EDCA will not operate New Year's Day, Martin Luther King Jr. Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

EDCA shall discontinue operations in the event Lifeguards deem operations unsafe to conduct due to inclement weather, adverse ocean conditions and/ or water contamination. EDCA works closely with Lifeguards to ascertain permissible operational conditions to ensure the safety and security of customers and employees. EDCA may also close in accordance with any "Special Events" as determined by Lifeguards.

SCHEDULE OF CLASSES

Week Long Camps <i>Monday - Friday</i>	Morning Session: 8:30 am - 12:30 pm (water activity starts at 9am) Afternoon Session: 1:00 pm - 4:30 pm
Weekend Camps <i>Saturday - Sunday</i>	9:00 am - 11:00 am 12:00 pm - 2:00 pm 3:00 pm - 5:00 pm
Daily Surf Lessons <i>Private & Semi-Private</i>	8:30 am - 5:00 pm (water activity starts at 9:00 am)
Daily SUP Lessons <i>Private & Semi-Private</i>	8:30 am - 5:00 pm (water activity starts at 9:00 am)

NUMBER OF STUDENTS PER CLASS

EDCA will have a maximum of 50 students per Site on the beach at any one time. Of those 50 students, a maximum of 25 students per group may be in the water at any one time.

FEES & CHARGES

**price per person*

Private Lessons	Private Lesson 1.5 Hours 1 person	\$74
	Semi-Private Lesson 1.5 Hours 2 - 3 people	\$65
Group Lessons	Daily Group Lesson 1.5 Hours 4 - 5 people	\$55
	1 Day Summer Camp 3 Hours	\$110
Summer Camps	3 Day Summer Camp 3 Hours per Day	\$199
	5 Day Summer Camp 3 Hours per Day	\$299
	5 Day Summer Camp 6 Hours per Day	\$545

INTERPRETIVE PROGRAM OR ACTIVITY

Surfing offers a unique opportunity to connect students with the ocean and teaches the importance of stewardship to help protect this wondrous resource. Each of the following activities are taught during longer camps and selectively chosen based on evaluations of students during shorter lessons.

Water Safety: Riptide identification, ocean swell (size, direction, and force), the sting-ray shuffle, natural and man-made hazards, wave and tidal information.

Surf Etiquette: Understanding the lineup, right of way, how to stay out of someone's way, not to tailgate.

Surf Instruction: How to paddle out, popping up, keeping the nose forward, how to use the leash, etc.

Environmental Conservation: Reducing impact, picking up trash, general stewardship.

Surf History: Where surfing began, the evolution of the shape, size and materials of the surfboard, etc.

Marine Life: The wonderful biodiversity of La Jolla Shores: Leopard Sharks, Sting Rays, Garibaldi Fish, Sheephead, Lobster, etc.

Fitness: The importance of staying fit and how to utilize public parks to exercise and enjoy life.

SUMMER CAMP

SURF LESSON PLAN

EDCA proposes to offer full and half day Surf Camps. Morning half day camps will begin at 9 a.m. and end at 12 p.m. Afternoon half day camps will begin at 1 p.m. and end at 4 p.m. Full Day camps will begin at 9 a.m. and end at 4 p.m. Surf camps will consist of a max of 50 students, with never more than 25 in the water at any given time. All camps will have one surf instructor for every five students, never exceeding the 1:5 instructor to student ration. EDCA will increase the ratio to 1:4 should the abilities of the group warrant increased safety and caution.

Students will be separated into three age groups: 5-8 years, 9-12 years, 13-17 years. All camps will be tailored towards beginner level surfers. Camps will focus on teaching students about surfing, environmental conservation, and making lifelong friends.

On the first day of camp, students will meet at the EDCA shop and be given a hat and shirt, then escorted by the staff down to the concession site. From that point forward, students will be meeting the instructors at Kellogg Park. Campers will be under the supervision of EDCA instructors and staff at all times through the duration of each camp. Once the campers are handed off by their parents, the instructors will walk them to the beach to the designated Site of operation where they will be fitted for wetsuits and given out color coordinated EDCA rash guards.

All camps will be separated into two blocks of time, ground school and water time. Camps will start the 30 minute check-in, introducing everyone to the reserve, their instructors and themselves. From there, students will start with the 20 minute ground school, followed by 40 minutes of water time.

MORNING HALF DAY CAMP SCHEDULE

8:30 am - 9:00 am	Check In
9:00 am - 9:30 am	Meet and Greet, Stretch, Ground School Session 1
9:30 am - 10:00 am	Surf Session 1
10:00 am - 10:20 am	Ground School Session 2
10:20 am - 11:00 am	Surf Session 2
11:00 am - 11:20 am	Ground School Session 3
11:20 am - 12:00 pm	Surf Session 3

Campers will be escorted and picked up from the same spot they were dropped off, at Kellogg park.

AFTERNOON HALF DAY CAMP SCHEDULE

12:30 pm - 1:00 pm	Check In
1:00 pm - 1:20 pm	Meet and Greet, Stretch, Ground School Session 1
1:20 pm - 2:00 pm	Surf Session 1
2:00 pm - 2:20 pm	Ground School Session 2
2:20 pm - 3:00 pm	Surf Session 2
3:00 pm - 3:20 pm	Ground School Session 3
3:20 pm - 4:00 pm	Surf Session 3

FULL DAY CAMP SCHEDULE

8:30 am - 9:00 am	Check In
9:00 am - 9:30 am	Meet and Greet, Stretch, Ground School Session 1
9:30 am - 10:00 am	Surf Session 1
10:00 am - 10:20 am	Ground School Session 2
10:20 am - 11:00 am	Surf Session 2
11:00 am - 11:20 am	Ground School Session 3
11:20 am - 12:00 pm	Surf Session 3
12:00 pm - 12:45 pm	Lunch

Campers will enjoy a 45-60 minute lunch with fellow campers and instructors, socializing and making friends. This time will be used to celebrate the efforts of campers and reinforce coastal stewardship and environmental awareness.

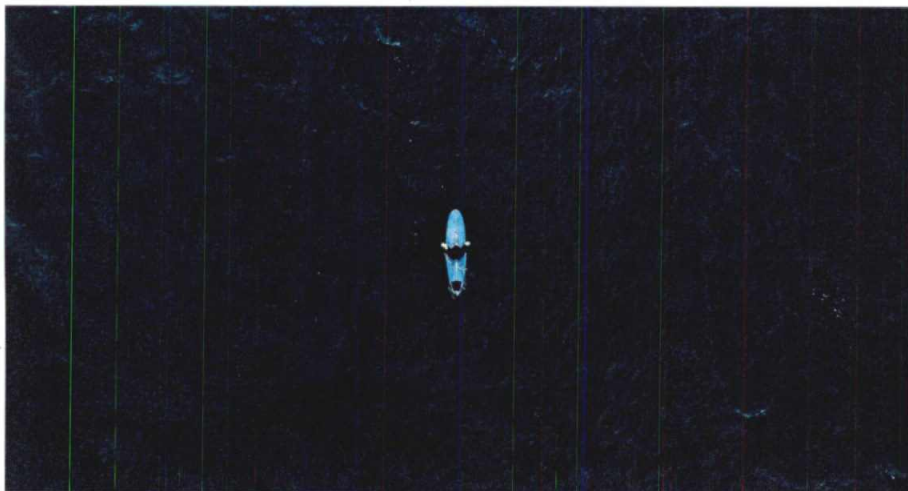
1:00 pm - 1:20 pm	Review of morning session's lessons and in-water experiences, Stretch, Ground school Session 4
1:20 pm - 2:00 pm	Surf Session 4
2:00 pm - 2:20 pm	Ground School Session 5
2:20 pm - 3:00 pm	Surf Session 5
3:00 pm - 3:20 pm	Ground School Session 6
3:20 pm - 4:00 pm	Surf Session 6



For more in depth ground school topics, please visit the [private lesson outline page](#). Camps will have much more in depth focus on Surf/ Surfboard history, Environmental Conservation and the La Jolla MPA than the private surf lessons. Private lessons, depending on the allotted time will choose one to two topics, while camps will focus on all of the following topics:

1. Rules and Boundaries
2. Stretching/ Fitness/ Nutrition
3. Ocean Safety/ Surf Etiquette
4. Ocean conditions
5. Fundamental skills of surfing
6. In-water Instruction/ Surf
7. Surf history
8. Surfboard history and structure
9. Environmental Conservation
10. Spreading the Surf Stoke
11. La Jolla Ecological MPA

SUP LESSON PLAN



EDCA will be offering SUP lesson. Lesson will duration offered will be 1.5 hours or 3 hours. Private SUP lesson will be 1:1 instructor to student ratio. Semi-Private Lesson will 1:2 (sometimes 1:3 if the group calls for it.). Group SUP lesson will be 1:5, all group lessons will launch from the boat launch with the Lifeguards permission and each student will be given a PFD.

Students will be checking in at EDCA Store located at 2261 Avenida De La Playa. At this point they will be offered to leave any belonging in the lockers provided at the shop. They will also be fitted for their wetsuits at the store. Once student is ready , the will be directed to the designated site on the beach where the instructor will be waiting for them with their boards & rashguards.

GREET STUDENTS

Greeting all students one by one is a very important part it will set the tone for the lesson, this opens the door for relationship building and provides an opportunity to make an initial assessment of students comfort level and needs.

LESSON OVERVIEW

Share a general goal for the day and basic overview so participants know what to expect throughout the day.

Challenge by Choice-Instructors will respect a participant's choice regarding his or her level of participation in the lesson.

RULES & BOUNDARIES

Let students know we are operating on a public beach, and that La Jolla Shores is a very special place in the world and houses one of a kind Marine Preserve(MPA). So they should respect others, environment, themselves and the equipment.

Site Boundaries- General area near the canopy/tent. Personal Belongings should be kept together in a designated location. Students may not enter the water without an instructor's permission. (More specific water safety will be discussed in the Water Safety part of the lesson.)

Bathroom location.

Sun Protection- Teach the importance of applying sunscreen for all students regardless of skin color and regardless of cloud cover, hats, rash guards, and shade.

Hydration- Stress the importance of staying hydrated especially during the hot summer days. Drink a cup in the beginning, during and end of the lesson. This will help prevent dehydration. There will be a water station at the site and also the choice to use the water fountains by the public bathrooms.

STRETCHING & ENERGIZER

Stretching is a very key competent to prevent physical injuries.

Basic Stretch Circle- Circle up and stretch the major muscle groups, explaining why stretching is important, and what muscles are being stretched. Here is a basic list of beginner stretches instructors can follow but will not be limited to only these:

1. Back bends/extensions (reach & touch toes)
2. Neck Roll
3. Shoulder Circles
4. Small/Large Arm Circles
5. Tricep stretch
6. Butterflies
7. Standing/Sitting Splits
8. One leg over the other back stretch
9. Any other additional or favorite stretches
10. Let students choose some favorite stretches

Energizer Games- Depending on the group and lesson it might be

a good idea to play a game before getting into the lesson. Play is often the most effective way to get students moving and interacting. There are many game variants that could work. The instructors are encouraged to personalize every lesson and get creative.

OCEAN SAFETY/SURF ETIQUETTE

Teach students about hazards they might encounter in the ocean and how to safely manage themselves for the lesson. Will help to reduce fear of unlikely hazards and increases confidence in the ocean.

1. Boundaries - Establish clear South & North boundaries. Point out flags, tents, lifeguard towers. While in the water students do not go deeper than your instructors. Stay in site boundaries on the beach.
2. Rip Currents - Rip Currents are channels of water that pull you out to deeper ocean. Demonstrate to students in the sand how waves roll in and then rips pull back out in a circular motion. If you get stuck in one do not panic and swim parallel to the shore until you are out. If you try to swim back to shore you won't get anywhere and you'll get very tired.
3. Longshore Currents - Longshore currents are a flow of water along the beach pushing North or South. Demonstrate in the sand. Use boundary markers to stay oriented. If you get too far down the beach, it is best to exit the water and walk back.
4. Humans - There are your friends, instructors, other surfer, and other swimmers in the water with you. Be aware of the space around you so you don't get hit and others don't get hit by you. Walk out next to surfers, never right in front of one. Do not let go of your board if you can help it. Watch out for surf boards and warn others of yours. Surfers at the peak have priority.
5. Surf Boards - The boards with a leash have a swinging radius of at least. Do not use leash to drag the board to protect others, our gear and your fingers. Watch fins when surfing in so you don't break them off. Carry board straight, nose facing the ocean. Show them how if they carry board parallel to shore a wave could knock them over. Step off board, do not dive off board. Protect head when coming out of the water.
6. Sting Rays - Sting rays are flatfish that bury themselves in the sand. Draw one in the sand to help students visualize. The stinger is a defense mechanism they use if you step on them. Use the stingray shuffle to warn stingrays that you are coming. Demonstrate the shuffle with students. If you get stung, tell an instructor.
7. Sharks - If sharks are mentioned let students know that sharks rarely come close to the shore and attacks are very rare.

GROUND SCHOOL

1. Transporting & carrying your board.
2. Handle/ shoulder/ head
3. Standing up on your board
4. Paddle Handling
5. Falling of board
6. Moving & Maneuvering

IN-WATER INSTRUCTION

1. Paddling out through the surf/ if surf is to large will move to boat launch to launch with Lifeguards
2. Head towards flat water once past the break group will gather together
3. Learn how to fall of the SUP by jumping of on purpose
4. Instructor will demonstrate pop-up & will give everyone a chance to practice.
5. Turning Practice
6. 20 min Paddle practice in the flat water parallel to the beach
7. Make your way back to the area where you are coming out.
8. Go over surf safety and game plan of the safest approach to make back in to beach.

CONCLUDE LESSON

1. Take of leashes
2. Buddy system to carry boards back up the sand
3. Overview of the lesson and any Q&A student might have
4. Direct students to the showers before heading back

After the conclusion of the SUP lesson the student will return to the shop to return their wetsuits and pick up any things that might have been stored at the shop.

PRIVATE & SEMI-PRIVATE

SURF LESSON PLAN



For the proposed private surf lessons, EDCA will operate daily from 9:00 a.m. to 4:00 p.m. year-round. Private lessons will be 1.5 hours with a 1:1 instructor to student ratio. Large private group lessons of 10 people with a 1:5 instructor to student ratio, will be 2 hours - Private lessons are one instructor per "party" of up to 5 people.

For the proposed semi-private surf lessons, EDCA will operate daily from 9:00 a.m. to 4:00 p.m. year-round. Semi-Private Surf Lessons will have a 1:5 instructor to student ratio, with classes of no more than 10 students.

Prior to arrival, students are instructed on where to park and to meet at the EDCA Flagship Store at 2261 Avenida De La Playa 30 minutes prior to all activities.

Upon arrival, students are instructed to sign an Electronic Release of Liability Agreement waiver form during check-in, if they have not already submitted one online prior to arrival. During the check-in process students are given the option to store personal items in available lockers and use available changing rooms and bathrooms. After check-in, students will be fitted for wetsuits if needed and be given a color-coordinated rash guard to help Lifeguards and Instructors identify them.

Students will be introduced to their instructors at which point they will be asked if there are any medical conditions she/he should be made aware and then escorted to the appropriate site on the beach.

Once on the beach, the lesson begins.

SURF LESSON OUTLINE:

GREET STUDENTS

Greet all students one by one to open the door for relationship building and provide an opportunity to make an initial assessment of student comfort level and needs.

LESSON OVERVIEW

Share a general goal for the day and basic overview so students know what to expect throughout the day.

Challenge by Choice: Instructors will respect a student's choice regarding his or her level of participation in the lesson.

RULES & BOUNDARIES

Educate students about La Jolla Shores: the special place it holds in the world as a Marine Reserve and an Area of Special Biological Significance.

Site Boundaries: General area near the canopy/tent. Personal belongings should be kept together in a designated location. Students may not enter the water without an instructor's permission.

Bathroom location.

Sun Protection: Teach the importance of applying sunscreen for all students regardless of skin color and regardless of cloud cover, hats, rash guards, and shade.

Hydration: Stress the importance of staying hydrated, especially during hot summer days. There will be a water station at the site and also the choice to use the water fountains by the public bathrooms.

STRETCHING & ENERGIZER

10 Minutes

Stretching is a very key component to preventing physical injuries.

Basic Stretch Circle: Circle up and stretch the major muscle groups, explain why stretching is important, and what muscles are being stretched.

- a. Back bends/extensions (reach & touch toes)
- b. Neck Roll
- c. Shoulder Circles
- d. Small/Large Arm Circles

- e. Triceps stretch
- f. Butterflies
- g. Standing/Sitting Splits
- h. One leg over the other back stretch
- i. Any other additional or favorite stretches
- j. Let students choose some favorite stretches

Energizer Games: Depending on the group and lesson it might be a good idea to play a game before getting into the lesson. Games are an effective way to get students moving and interacting. There are many game variants that could work. The instructors are encouraged to personalize every lesson and get creative.

OCEAN SAFETY & SURF ETIQUETTE

5 Minutes

Teach students about hazards they might encounter in the ocean and how to safely manage themselves for the lesson. Help reduce fear of unlikely hazards and increase confidence in the ocean.

Boundaries: Establish clear south & north boundaries. Point out flags, tents, lifeguard towers. While in the water students do not go deeper than the instructors. Stay in the site boundaries on the beach.

Rip Currents: Educate students on how to identify rip currents (channels of water that pull you out to deeper ocean) and the proper way to swim out of one (do not swim directly towards the shore, swim parallel to the shoreline until free from the rip current).

Longshore Currents: Longshore currents are a flow of water along the beach pushing north or south. Demonstrate in the sand. Use boundary markers to stay oriented. If you get too far down the beach, it is best to exit the water and walk back.

Humans: Friends, instructors, other surfers, and other swimmers in the water. Teach spatial awareness to avoid hitting others and to avoid being hit. Walk out next to surfers, never right in front of one. Do not let go of the board if it can be helped. Watch out for surf boards and warn others of yours. Surfers at the peak have priority.

Surf Boards: Be mindful of the swinging radius of the board attached to the leash. Do not use leash to drag the board to protect others, our gear and your fingers. Watch fins when surfing in so you don't break them off. Carry their board straight, nose facing the ocean. Show them that if they carry board parallel to shore, a wave could knock them over. Step off board, do not dive off board. Protect head when coming out of the water.

Sting-rays: Demonstrate sting-ray shuffle, tell an instructor if stung.

GROUND SCHOOL

10 - 15 Minutes

Introduce students to the fundamental skills of surfing. The practice of good techniques on land is an important first step to catching waves and standing up in the water.

Anatomy of the Board: Point out nose, tail, rails, deck, stringer, bottom, fins, and leash.

Goofy or Regular: Some people prefer to ride with their left foot forward "Regular Stance" while others prefer to ride with their right foot forward "Goofy Stance." If students don't know which stance is more natural for them, have them stand with their feet together and slowly fall forward. The foot they step out with to catch themselves with is most often the foot they should put in front while surfing.

Surf Position: It is helpful to demonstrate proper surf stance at the beginning of the lesson, so students have a goal in mind when learning the pop-up. Place back foot on the deck just over the fins perpendicular to the stringer. Place front foot a little more than shoulder length apart in line with the back foot at a 45-degree angle to the stringer. Bend your knees, keeping head up and back straight for balance. Look over your front shoulder where you want to go. Avoid bending at the hips.

Paddle Position: This is the position surfers use when paddling and catching waves. Lie down (only in soft sand so fins don't break) on center of the board so your weight is evenly distributed, push your body back so your toes touch the tail. We call this the "toe check," and it helps prevent the surfboard from nose-diving when you go to catch a wave. Keep your chin up and look forward.

Paddling: This is how we move the board on the water. Arch your back and keep your head up. Cup your fingers like spoons and use big, strong strokes to propel the board forward. When paddling out into waves, it is helpful to gain some speed. When you meet a wave coming at you grab the rails of the board and push your chest up. This will help you get through more easily and keep from getting knocked off your board. (For more advanced students turtle roll/duck dive techniques can be discussed).

Pop-Up: The pop-up is a single motion skill that requires repetition and practice to master. Place your palms flat on the deck of the board back by your rib cage so your arms look like chicken wings, keep looking forward, push up and arch your back so you are in cobra position, use the momentum of this push to pop up in one quick single motion by swinging your front foot forward into a lunge and bringing your back foot into position underneath you, plant your feet flat, ensure your hips and feet are in line with the stringer and stand

up into the surfing position. There are two stable positions, laying down and standing up. The quicker you go between those positions the better. Practice the pop up together several times. Once students pop up, tell them to freeze and look their feet. Instructors should be assisting students with their pop-ups and offering suggestions until the entire group has the basic motion down.

Catching Waves: Imagine catching a wave is like merging onto the freeway, you need some speed in order to make the merge. Make sure the nose of the board is pointed directly at the beach. Start paddling before the wave reaches you. As soon as you feel the board moving with the wave, give two more paddle strokes and pop up!

REVIEW CONDITIONS

2 Minutes

Conditions in the ocean can change quickly. Instructors should constantly be surveying the conditions to be able to provide the safest lesson possible.

Take time to give your students a final game plan of water conditions and safety before entering the water, such as hazards to watch for that an experienced instructor will notice but students won't.

IN-WATER INSTRUCTION & SURF

45 - 60 Minutes

Gear Check: Ensure student has put on sunscreen, wetsuit is on correctly, they are wearing the correct rash guard, they have chosen a board length appropriate for their size, and the board has a leash.

Entering the water: Practice the pop-up some more if need be and instruct them to put the leash on their back foot. Remind them of the sting-ray shuffle and how to carry a board. Choose an uncrowded area inside the boundaries to walk out.

Positioning in the water: Find a spot at least 10 feet from another group of surfers to start the in-water lesson. If the student is nervous, walk out to knee-deep water to start and gradually go deeper. If student is more confident, walk or push them out into deeper water. Stay within standing water to start the day.

Setting Up: Inform the student of what is going to happen next. Identify a good wave, turn the board around and if student is not on the board instruct them to lie down and center themselves on the board while you hold the board steady. Make sure the board is pointed straight, never in front of you. Once they have toe checked and they are balanced on the board, grab the board with both hands, one on the rail, one on the tail, gather the leash by folding it up in the hand (check for knots) that will be holding the rail to ensure you

don't get caught in it, wait for the wave to approach, and count to 3 out loud so the student knows the wave is coming. When the wave is right behind you say "THREE" and push the board by taking a few steps and pushing with your whole body. Let go of board and leash as it pulls out of your hands from momentum. Once they are in the wave yell out to pop up.

Celebration: Whether the student pops up or not, celebrate! Yell, wave, dance, smile, give them a thumbs-up, a high-five, knuckles, anything to congratulate them on their effort or first wave ridden. Spreading the stoke, love, and joy for being in the water and surfing is one of the most important parts of the lesson. Positive reinforcement is huge for everyone's confidence in and out of the water. Then setup again.

Returning Back to Instructor: Before the student walks back out to you, adjust your position to ensure proper spacing and that the longshore current didn't push you out of boundaries. You can walk back in and assist the student if they need it. Otherwise encourage students to hold the board with both hands and shuffle/paddle back out to you. Keep going!

Common Mistakes: If the student does not stand up or falls, coach them on how to adjust their technique. Falling backward could be no bend in the knee, nose dive (pearling) could be too far forward on the board, slipping off could be they just need more practice. Watch them and assess.

Steep Waves: If a wave is steep, push down on the board with all your weight as you push them into the wave. You can even ride on the back of the board if you are comfortable with this. The weight will help flatten the board out in the wave, so they don't nose dive.

Waves to avoid: Small waves with no power, double waves, offset waves, steep set waves with high likelihood of wipeout.

CONCLUSION TO LESSON

5 - 7 Minutes

Meet back on the beach. Once more, as everyone is gathering, yell, wave, dance, smile, give them a thumbs-up, a high-five, knuckles, anything to congratulate them on the awesome effort and time they just had in the water.

Check on how everyone is feeling. Make sure everyone is still feeling good physically and nobody was hurt out in the water.

Review on what they have learned and experienced. Next steps to progressing their skills.

Thank everyone and collect rash guards. Point out the beach showers and suggest that everyone rinses off. Clearly direct them back to the shop if the students need to return a rented wetsuit or grab their personal belonging from the locker.

OPERATING PLAN PART II

RESPONSE TO EXHIBIT C: LIFEGUARD SERVICES SAFETY REQUIREMENTS

Safety is always the first priority for EDCA while operating concessions in La Jolla Shores. As the central component to EDCA operations, Surf Instructors will be hired and trained to ensure student and employee safety at all times. EDCA Surf Instructors will train annually and bi-monthly throughout the non-peak season and must adequately demonstrate the ability to execute surf lesson/camp operations in accordance with Exhibit C and internal protocol to ensure safe operations year-round in water and on land.

NUMBER OF PARTICIPANTS

Everyday California will adhere to the maximum of 50 students on the beach, with no more than 25 students in the water at any time.

IDENTIFYING MARKERS

At all times, EDCA instructors will be wearing red rashguards clearly displaying the Everyday California logo on the front, and SURF INSTRUCTOR on the back.

Students from EDCA camps and classes will wear a color specific rashguard with the Everyday California logo. Any other EDCA employees working on the beach will be wearing an official company uniform with the Everyday California logo clearly displayed on the front, and "SURF STAFF" on the back.

The CITY-issued sign with the Everyday California logo will be clearly posted at the site when classes are in progress.



STUDENT TO INSTRUCTOR RATIOS

Per Exhibit C, for every five students on the beach or in the water, one instructor will be present. While students are in the water, an American Red Cross certified instructor will be present to supervise the class. Everyday California will also maintain a 1:2 instructor to student ratio inside the surf zone for Standup Paddleboards (SUP). For flat water SUP, there will be a 1:5 instructor to student ratio.

BEACH ACCESS

EDCA will not exclude the public from our site. Beach access will be maintained for the general public while all surfboards, wetsuits and first aid kits are neatly stored within the allotted EDCA canopy. Surfboards will be neatly stored in stacks of no more than ten. Approved concession sign will be displayed at all times during normal operating hours.



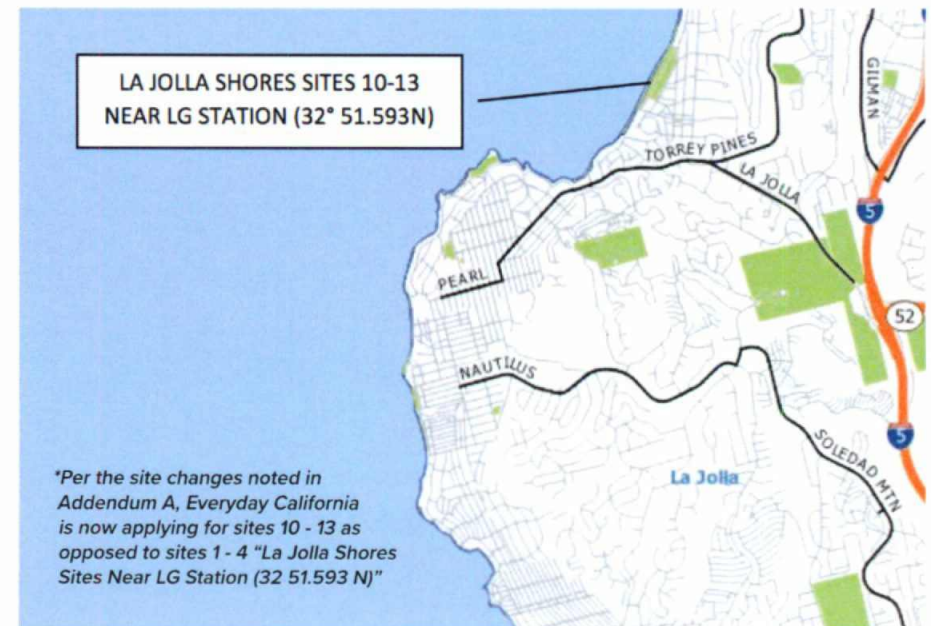
CONCESSION/ SITE LOCATION

EDCA will operate from the assigned site on the beach (10, 11, 12 or 13) that is awarded by the city.

All water activity will be conducted in the immediate designated surfing zone directly in front of the assigned beach site, unless safety is a concern due to water conditions. EDCA will consult with the San Diego Lifeguards to determine the safest alternative location for any in-water activity.

EDCA will not hold any concession operations from the park or non-assigned public beach areas. All customers and guests will check in and handle all payments and liability waiver paperwork 30 minutes prior to their lesson or camp at the EDCA flag ship location at 2261 Avenida De La Playa. EDCA will only use park facilities, parking lots and/or nearest streets to meet participants and escort them from the store to the designated site on the beach.

Standup Paddle Boards will also launch in the immediate surf zone in front of the assigned beach site. If conditions such as high surf or strong winds warrant increased safety measures, EDCA will consult with the San Diego Lifeguards to launch from the La Jolla Public Boat Launch. At this time SUPs will be considered small vessels and will require the customers to wear US Coast Guard approved Personal Floatation Devices (PFD's). Furthermore, the SUP's at this point will have to remain outside the surf area at all times unless entering or exiting the surf in the La Jolla Boat Launch.



EQUIPMENT

EDCA will provide all of its students with well-functioning equipment. EDCA will have 6', 7', 8', and 9' soft-top (foam) boards available for all its students participating in both lessons and camps. All boards will have a functioning leash. Life jackets will be provided with SUPs.

If hardtop boards are used by any students or customers, they will all be fitted with a nose and tail guard protection and will also be equipped with a functioning leash.

EDCA utilizes inflatable SUPs with leashes for beginner Standup Paddle boarders. They are proven to be much safer in the surf break and are very buoyant for students who are just starting off. All hard-top SUPs will have a nose and tail guard for protection and will also come with a functioning leash. Standup Paddle Boards that are entering the La Jolla Boat Launch will be given a US Coast Guard approved PFD.

6' - 9' FOAM BOARDS | INFLATABLE SUP | HARD TOP SUP PADDLES | LIFE JACKETS | NOSE + TAIL GUARD PROTECTION | LEASH



MINIMUM REQUIREMENTS FOR SURF INSTRUCTORS

AGE

The minimum age requirement for an instructor working for EDCA will be 18 years of age.

EXPERIENCE

Surf Instructors will be expected to have strong surfing and ocean knowledge. Minimum of 3 years of surfing experience. 1 year preferred of Instructor/Guide/Teacher experience.

QUALITIES

Surf Instructors must show a high priority for students/customer safety, and must be reliable, punctual, organized, have excellent verbal/written communication and be compassionate. Must show general enthusiasm and love for people, ocean, surfing and environment conservation. Bilingual is a plus.

REQUIREMENTS

Must be able to lift at least 50 lbs.

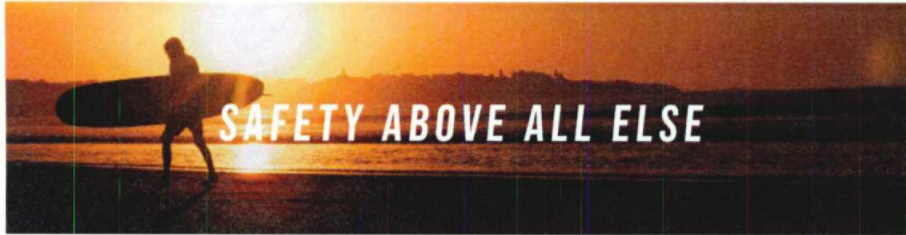
All instructors will have to undergo a Background Check by the Department of Justice as well as an employer reference check.

Per Exhibit C, all surf lesson/camp instructors will be required to have at least one certification out of each of the following sections:

American Red Cross, "Lifeguarding"/ Miramar, "Intro to Open Water Lifeguard"/ Water Safety Specialist, "Surfing Instructor Safety Training."

American Red Cross/ American Heart Association or any other nationally recognized basic CPR Training Certification.

Emergency Medical Technician (EMT)/ American Red Cross Emergency Response/ American Red Cross First Aid Basic or any other nationally recognized First Aid course with Certification.



OUR INSTRUCTORS PRIORITIZE SAFETY

Everyday California's number one focus has always been safety. To ensure that all guests get the best quality lessons and camps, all instructors and guides are put through in-house training on top of the CITY required certifications. Instructor training will ensure each individual is equipped with the skills and tools to carry out the most safe, educating, and enjoyable lessons possible.

All instructor applicants will have to first pass an in-water surf test before qualifying for an interview. This test will be graded on a 1-10 scale, judging the applicant's knowledge on basic surfing and ocean skills. They will be tested on their knowledge of:

1. Riptides
2. Currents
3. Surf Etiquette
4. Maneuvers
5. Wave selection

After the interview process, new instructors will have to shadow an experienced instructor on five lessons before being allowed to lead their own class. All training is overseen by the Director of Operations and senior instructors.

STAFF TRAINING PLAN

ORIENTATION

1. Company Policies & Procedures
2. Human Resources
3. Employee Handbook
4. OSHA Policies & Safety In the workplace
5. Employee Code of Conduct
6. Uniform Policy
7. Drug Free Workplace
8. Harassment Free Workplace

PRELIMINARY TRAINING

Operating Procedures & Protocols

Review of Surf Concessions Requirements set forth by Exhibit C

1. Ocean Conditions & safety
2. Identifying Markers
3. Concession Site Regulations
4. Beach Access
5. Water Activity Zones & Areas of special Interests
6. Equipment
7. Waivers
8. Safety Precautions/ Emergency Response Plan
9. Minimum Requirements for Instructors
10. Violations/Safety Notice
11. Additional Concession Stipulation

OVERVIEW OF LA JOLLA SHORES BEACH & ECOLOGICAL PRESERVE (MPA)

1. Local Rules & Laws pertaining to water activity Zones
 - a. Control Zones
 - b. Board Surfing zones
 - c. Swim Zones
 - d. Boat Launch Zone
2. Local Rules & laws pertaining to La Jolla Ecological Preserve
 - a. Definition According To SDMC
 - b. Boundaries
 - c. "Look but don't touch"
 - d. 5 mph
 - e. No commercialization without a Permit
 - f. Marine Mammal Protection Act
3. Hazardous Areas
4. La Jolla Cove & Swim Lane
5. Marine Life
 - a. 4 Micro Habitats (Sandy Flats/ Rocky Reef/ Kelp Forest/ Submarine Canyons)
 - b. Sea Lions
 - c. Harbor Seals
 - d. Leopard Sharks
 - e. Garibaldi

- f. Grey Whales
- g. Brandt's Cormorants
- h. California Brown Pelicans
- i. Sting Rays
- 6. Environmental Awareness
 - a. 1% For the Planet
 - b. Help the Kelp
 - c. GreenWave

WEATHER & SURF CONDITIONS

- 1. Daily Surf Report
- 2. Wind Swell
- 3. Ground Swell
- 4. Currents
 - a. Surface Currents- Surface Circulation
 - b. Deep Water Currents- Thermohaline Circulation
 - c. Longshore
 - d. Rip Currents
- 5. Swell periods and Intervals
- 6. Wave Formation
- 7. Swell Direction/Activity & Vulnerable Areas
- 8. Overview of Swell Directions and tide impact
- 9. Temperature
 - a. Extreme Heat
 - b. Extreme Cold
- 10. Hazard alerts
- 11. Operations & Logistics under various conditions

SURFING HAZARDS

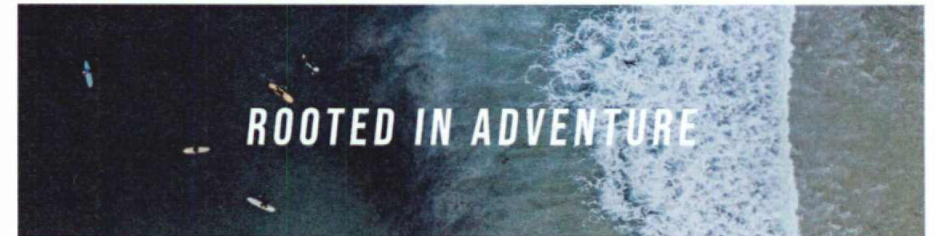
- 1. Overview of Sandy Flats Hazards
- 2. Overview of Rocky Reef Hazards
- 3. Large Surf
- 4. Wind
- 5. Tides
- 6. Rip Currents
- 7. Breaks and white water
- 8. Water depth
- 9. Proper Positioning of instructor/student/board
- 10. Student/Customer Swim & Strength abilities
- 11. Sting Rays
- 12. Rocks/Shells
- 13. Jellyfish
- 14. Bee Sting

EMERGENCY RESPONSE PLAN

- 1. General Rescue Procedure for water emergencies
- 2. General Rescue Procedures for Land Emergencies
- 3. Cellular Communications
- 4. Identifying Potential Emergencies
- 5. Emergency Signals
- 6. Accidents/Injuries/ and Incident Slips
- 7. Review of General Lifeguard Operations
- 8. Emergency Access & Evacuation Routes, Summoning & Assisting EMS

CAMP & PRIVATE LESSONS

- 1. Flow of traffic/Meeting locations
- 2. Responsibilities related to customers/ students/ campers
- 3. Assessing abilities
- 4. Wetsuit & Surfboard/SUP Fitting
- 5. Teaching water/beach safety
- 6. Teaching ocean preservation & conservation/ Environmental Awareness
- 7. Marine Life
- 8. Stretching & Energizer Techniques
- 9. Surf /Surfboard Shaping/SUP History
- 10. Ground School
- 11. Surf/SUP Etiquette/ Ocean Awareness
- 12. In Water Surf/SUP Instruction/ Techniques



WAIVERS

EDCA will have on file a signed waiver from each participant, or their legal guardian if under 18 years of age, which holds the CITY, it's agents, officers and employees harmless and idemnifies the same from any claims relating to the participates' activities on the CITY beach which arise from or are in any manner connected with the services provided to the participants under the agreement.

Waiver will always be kept on file on site for easy access. See "Sample of Waiver" on following page.

SAMPLE OF WAIVER

Everyday California Surf Liability Waiver

IMPORTANT: PLEASE READ THIS CAREFULLY. BY SIGNING IT, YOU WILL BE GIVING UP IMPORTANT LEGAL RIGHTS.

1. **ASSUMPTION OF RISK** There are inherent risks in surfing/SUP that could result in serious physical injury, loss, damage to personal property, or even death. These risks include, without limitation: Cuts, bruises, sprains, broken bones, concussion, wildlife encounters, paralysis and drowning. The undersigned assumes all risks and voluntarily elects to participate in spite of the risks.
2. **RELEASE OF LIABILITY** In consideration of my participation in this activity, I hereby release, waive and discharge HLS Ventures, LLC, DBA Everyday California and its owners, agents, employees, representatives, and volunteers ("Released Parties") from any and all claims, loss, damages or costs arising from my participation in this activity, including, but not limited to, walking to and from the beach or while using any equipment, and I agree the Released Parties **WILL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE FOR ANY REASON**, whether arising from their ordinary **NEGLIGENCE OR OTHERWISE**, except for the gross negligence or willful misconduct by the Released Parties.
3. **INDEMNITY** I agree to indemnify, defend and hold harmless the Released Parties, the City of San Diego, its agents, employees, representatives and volunteers ("Indemnities") against all loss, liability, damages, or costs, including court costs and attorneys' fees, that the Indemnities may incur arising out of or in any way related to my participation in this activity, to the maximum extent permitted by law.
4. **WARRANTY OF CONDITION: EMERGENCY CARE** I understand this tour may involve strenuous activity. I warrant I am in a condition that will allow me to participate without harming myself or others. Everyday California disclaims any investigation into my medical history or background, and is relying on my warranty to allow my participation. Everyday California reserves the right, in its sole discretion, to deny my participation in this activity for any reason. I consent to emergency medical care and transportation in the event of injury to me.
5. **OTHER** In the event that any provision of this release is found to be invalid or unenforceable, the remaining parts will not be invalidated, and shall remain in full force and effect. California law applies. This release is binding upon the heirs and successors of each participant. The enforceability or validity of this agreement shall not be affected by the fact there are multiple contracting parties who sign it.
6. **CONSENT/CONDITION OF EQUIPMENT** I have read this Waiver and Release of Liability Agreement and understand I am giving up legal rights. I further accept full responsibility for any loss or damage of rental gear and will be charged as follows.

CONSENT: I HAVE READ THIS WAIVER/RELEASE AGREEMENT IN ITS ENTIRETY, FULLY UNDERSTAND THAT I AM GIVING UP SUBSTANTIAL RIGHTS, INCLUDING THE RIGHT TO SUE, AND SIGN IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT.

Print Name: _____ Signature: _____ Date: _____

FIRST AID KIT

An American Red Cross First Aid Kit, approved by a City of San Diego Lifeguard, is always going to be kept on site. There will also always be a backup kit held nearby. Prior to the initial class EDCA will arrange with the San Diego Lifeguards for an initial equipment and first aid safety inspection.

EMERGENCY RESPONSE PLAN FOR SURF CONCESSIONS

The purpose of this emergency response plan is to establish procedures, responsibilities, and duties; to promote planning and to establish training for employees and individuals at EDCA in the event of an emergency.

The following plan is the minimum level of response and readiness for EDCA during emergency situations. EDCA will distribute the detailed version of the Emergency Response Plan to all of its employees. It will also be fully covered during the Instructor training sessions.

OCEAN CONDITIONS

Everyday California will only operate if the ocean conditions are considered safe by the San Diego Lifeguards. If all conditions are cleared for surfing/SUP than the Shop Manager/Senior Instructor will evaluate the conditions on the beach and the skill level of the customers/students and facilitate a lesson that is consistent with maintaining safety given their abilities.

In the event that an emergency does arise while a participant or other individual is in the water our protocol is as follows:

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

GENERAL RESCUE PROCEDURES FOR LAND EMERGENCIES

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

CELLULAR COMMUNICATIONS

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

EMERGENCY SIGNALS

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

Whistles will be immediately available to all Everyday California instructors and surf camp personnel.

One hand or any piece of equipment being waved overhead from side to side, or three short whistle blasts will indicate that an emergency exists and immediate assistance is needed.

One hand placed on the top of the head will indicate that everything is all clear. Instructors and other surf camp personnel will be diligent to look for any signs and signals of distress when they are at the beach.

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

ACCIDENTS, INJURIES AND INCIDENT SLIPS

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

TERMINATION OF SURF CAMP OPERATIONS

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

NOTICE OF VIOLATION

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

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

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

OPERATING PLAN PART III

ORGANIZATIONAL STRUCTURE

COMPANY'S QUALIFICATIONS

For nearly a decade EDCA has partnered with the City of San Diego, Lifeguard Services, San Diego Tourism Authority, and Visit California to share adventures and promote tourism throughout La Jolla. Over this time EDCA has safely operated kayak tours and rentals, snorkeling tours and rentals, surf board and boogie board rentals, and SUP rentals in La Jolla Shores. We feel fortunate to have been afforded the opportunity to run a business that allows us to hire talented people, give back to the community and provide people from all over the world with lasting memories. We take this opportunity very seriously and are confident in our abilities to successfully operate a Surf Camp and School Concession.

EDCA began as a small start-up owned and operated by the current management team who ran the day to day operations for years. Owners and directors took every call, ran every tour, cleaned the bathroom, moved the boats and did anything else that was needed. As EDCA began to grow we hired and trained the best available talent in order to grow our ever expanding business. EDCA has done a tremendous job hiring and recruiting talent, in particular with the help of Lifeguard Services, in finding a diverse group of employees that shared our belief in making fun happen and using business to improve our environment. EDCA is fortunate to operate in La Jolla and strives to better the community by being a good neighbor, giving back to ocean conservation, and most importantly by being safe on the water.

EDCA believes that being safe on the water and running a successful adventure business doesn't start when the customer arrives at the shop. It starts by evaluating talent and hiring the right people and personally training them year-round. Retaining these employees throughout the year and keeping them incentivized and appreciated is paramount to our success. EDCA has maintained employee retention by offering monthly award presentations (where we give away surfboards and even trips to Cabo) to the employees with the most 5 star reviews and that management has selected for the hardest working and best representation of our community and our company.

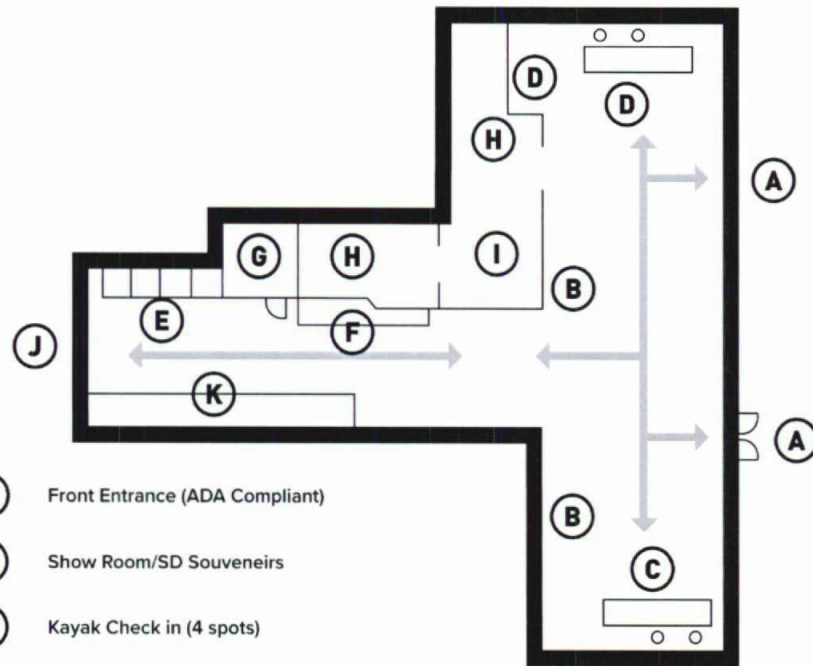
Since the founding of EDCA, hundreds of thousands of people from around the United States and abroad have been on an adventure with our staff. In 2018 a record 60,000 people of different race, ethnicity, gender, age, education, profession, occupation, and income level visited Everyday California. The feedback from this diverse customer base has been a resoundingly positive reaction for San Diego Tourism and EDCA (4.5 Stars Yelp, 4.5 Stars TripAdvisor, 4.5 Stars Google) EDCA believes this number will only continue to grow in 2019.

As EDCA expands and looks toward the future, we continue build upon our organizational foundation. To help with our success, we have hired experts within the San Diego surfing industry, with plans to hire more amazing employees with diverse skill sets from the professional surfing community, tourism sector, and marketing field once we are awarded a Surf Lesson and Camp Concession.



EVERYDAY CALIFORNIA FLAGSHIP STORE 2569 Square Ft.

2261 Avenida De La Playa
La Jolla, Ca 92037



- (A)** Front Entrance (ADA Compliant)
- (B)** Show Room/SD Souveneirs
- (C)** Kayak Check in (4 spots)
- (D)** Surf Check in (4 spots)
- (E)** Changing Rooms (5)
- (F)** Lockers
- (G)** Bathroom
- (H)** Wash Room/Storage
- (I)** Board Storage
- (J)** Emergency Exit
- (K)** Gear Room

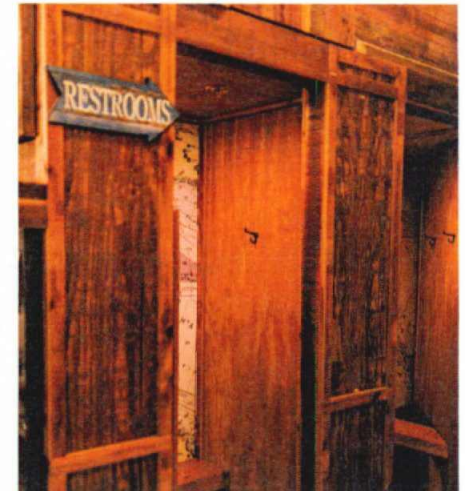
PHOTOS OF OPERATION



Outside the Flagship Shop



Changing rooms



Restrooms



Wetsuit Storage



Front Desk



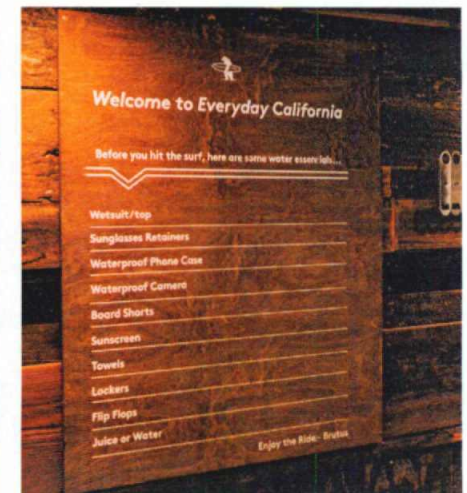
Shop wall, where images + info about tours are displayed for customers



Conditions Report on the Flagship Store wall, visible to all customers and updated daily



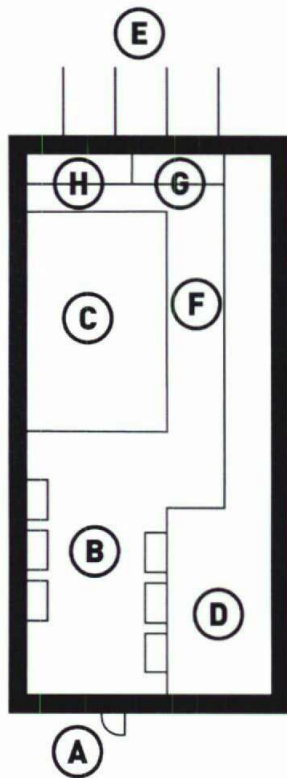
Lockers



Welcome Sign

EVERYDAY CALIFORNIA OFFICE*First Floor*

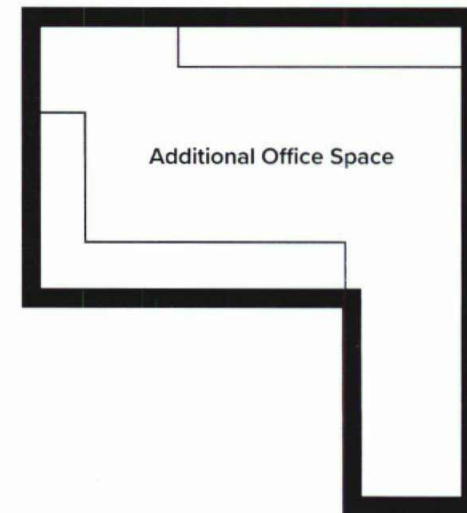
2246 Avenida De La Playa
La Jolla, Ca 92037



- (A)** Front Entrance (ADA Compliant)
- (B)** Sales/Marketing
- (C)** Kayak/Board Storage
- (D)** Wash Room/Gear Storage
- (E)** EDCA Parking Spaces
- (F)** Retail Inventory
- (G)** Bathroom
- (H)** Tool Shed/Gear Storage

EVERYDAY CALIFORNIA OFFICE*Second Floor*

2246 Avenida De La Playa
La Jolla, Ca 92037





Outside the Office

SUMMARY OF EMPLOYEE'S QUALIFICATIONS

During peak season, EDCA employs over 80 qualified watermen and waterwomen that are trained both in-house and by the San Diego Lifeguards. Per Exhibit C for the San Diego kayak concession, all current Everyday California tour guides must be over the age of 18. Also, each individual guide is responsible for completing and maintaining a valid basic First-Aid certification and a valid CPR certification for the Professional Rescuer. On top of this, each guide must complete Everyday California's in-house kayak guide certification outlined by the BCU. Lastly, each guide must complete the Lifeguard Division Kayak Guide Orientation Training Course. Additionally, if awarded a Surf Camp and School Concession Permit, select EDCA employees evaluated to be eligible as Surf Instructors, will complete additional training per Exhibit C of the Surf Camp and School RFP.

Every year, many of our guides are current or past surf instructors and surf camp leaders. We have had countless tour guides come to us with a San Diego Lifeguard background or go on to work for the San Diego Lifeguards. Many of our tour guides have competitive surfing backgrounds and surf for San Diego State University, University of San Diego and the University of California San Diego. By adding the required American Red Cross "Lifeguarding" certification per Exhibit C for the Surf Concession, Everyday California will have hundreds of experienced and qualified men and women to run surf lessons and surf camps in La Jolla Shores for this proposal.

SUMMARY OF PROPOSED INSTRUCTOR & STAFF EXPERIENCE



JASON BRINITZER

Co General Manager

Bachelor of Fine Arts in Communication from SDSU in 2013. Supervisor of Operations and San Diego Surf School from 2015 - 2018. Managed personnel and daily operations. Small business owner.

Certifications:

First Aid, CPR for the Professional Rescuer
Lifesaving/lifeguarding



PETER KOSULIN

Co General Manager

Two years of running Everyday California operations. Overseeing and managing 50+ tour guides. Lifelong surfer and waterman, Everyday California kayak tour guide in 2015 and 2016.

Certifications:

British Canoe Union certified for open water kayaking
Healthcare Provider American Heart Association CPR/AED
Healthcare Provider First Aid through American Heart Association



KAMALANIKAEONOEAUEKU HURWITZ

Shift Manager

Over 4 years of customer service and tour guiding, including running kayak and snorkel tours with Everyday California. Mauna Kea Beach Club "beach boy".

Certifications:

British Canoe Union certified for open water kayaking
CPR/AED for the Professional Rescuer, First Aid through American Red Cross



ELLERY BLOCK

Senior Staff Member

Two years of leading kayak and snorkel tours through the La Jolla Ecological Reserve. Over four years in customer service and charity fundraising. Avid Surfer and outdoor enthusiast.

Certifications:

British Canoe Union certified for open water kayaking
Basic Life Support for American Heart Association



LINDSAY ROTHWELL

Senior Staff Member

Two years of leading kayak and snorkel tours through the La Jolla Ecological Reserve for Everyday California. Over two years as an Educator for SeaWorld San Diego, 2015 - 2017. Personal Trainer and avid surfer.

Certifications:

British Canoe Union certified for open water kayaking
Basic Life Support for American Heart Association



RAMIN ZANGENEH

Senior Staff Member

Bachelors in Organizational Leadership from Fort Hays State University. Two years of running kayak and snorkel tours out of La Jolla Shores for Everyday California. Kansas Youth Leadership Academy Counselor.

Certifications:

British Canoe Union certified for open water kayaking
Basic Life Support for American Heart Association

**BRANDON PARKER***Senior Staff Member*

Experienced guide for Everyday California leading kayak and snorkel tours through the La Jolla Ecological Reserve and managing beach operations at the La Jolla Boat Launch.

Certifications:

Basic Life Support for American Heart Association
CPR/AED for the Professional Rescuer, First Aid through American Red Cross

**ABIGAIL LANG***Senior Staff Member*

Experienced guide for Everyday California leading kayak and snorkel tours through the La Jolla Ecological Reserve. Over 2 years experience as a personal trainer, working with clients to achieve fitness goals.

Certifications:

British Canoe Union certified for open water kayaking
CPR/AED for the Professional Rescuer

**JOSH SVORINIC***Senior Staff Member*

Experienced guide for Everyday California leading kayak and snorkel tours through the La Jolla Ecological Reserve. 10+ years experience in customer service. Avid surfer and musician.

Certifications:

British Canoe Union certified for open water kayaking
Basic Life Support for American Heart Association

**ROMAN KOSULIN***Sales Manager*

Roman Kosulin is the Sales Manager at Everyday California with over seven years of outside sales experience. This is his first year with Everyday California. He is responsible for the day to day sales and any large or private groups coming out on tours. Roman handles outreach and partnerships with Universities, Colleges, local organizations, etc. to offer promotional rates for tours.

**JOSEPH GREANEY***Sales & Donations*

Joseph Greaney is responsible for the day to day sales at Everyday California, as well as donations. With several years of outside experience in sales and customer service, Joseph is able to represent Everyday California while coordinating bookings and providing excellent customer service to those looking to come out on an adventure.

**ANASTASIA SOPHINOS***Retail Manager*

5+ years managing Everyday California. 6+ years in Retail Sales, Customer Service and leading Kayak Tours for Everyday California.

Certifications:

British Canoe Union cert for open water kayaking
Basic First Aid, CPR for the Professional Rescuer through The American Red Cross

**BRODERICK BOND***Logistics Manager*

Brodie Bond is the Logistics Manager at everyday California. He started out with the company as a kayak and snorkel tour guide before beginning to take over order fulfillment and inventory management. With over two years experience, Brodie now coordinates all of the inventory management and manufacturing of Everyday California branded items while still ensuring rapid fulfillment and great customer service for online orders.

**JANNA EGGLESTON***Marketing Director & Graphic Designer*

Janna Eggleston is the Graphic Designer and Marketing Director at Everyday California, responsible for creating and managing email campaigns, apparel, photo and video content, ads for social media, as well as day to day marketing and graphic needs.



ROBIN BIGGE

Marketing Director & Photographer

Robin Bigge is a Photographer and Social Media Manager that climbed the ladder from an intern to Marketing Director at Everyday California. With over three years of experience in both fields, Robin tackles day to day operations of all social and media outlets for the company while providing all of the content you see on said outlets.

OPERATING PLAN PART IV

DIRECT OPERATOR OF ENTIRE SITES

Proposer, or signatory to the proposal, must be the direct operator of the entire Sites under the Agreement.

Should the City award EDCA with a Surf Camp and School Concessions permit, EDCA will be the sole operator of said permit per the guidelines stated in the RFP.

OPERATING PLAN PART V

EMERGENCY RESPONSE PLAN

BACKGROUND

With over a decade of operating sea cave tours, kayak whale watching tours, kayak/snorkel tours and surfboard and SUP rentals in the La Jolla Shores, Everyday California is qualified to safely and efficiently operate a Surf Camp concession.

EDCA's hiring practices and comprehensive employee training have created a lean and efficient staff that have elevated EDCA to the safest operator in the industry. In 2018 alone, 60,000 people visited EDCA. Customers came from all over the country, and all over the globe, and some people had ocean experience while others were seeing the ocean for the first time.

While operating year round, EDCA instructors competently lead the general public through favorable and sometimes unfavorable weather conditions. Understanding the humbling power of mother nature, it is known that the weather conditions can change at any moment. EDCA is confident in our ability to train staff to manage and prepare for the unthinkable. This is possible by always having a safety first mentality, and taking a proactive approach to operating.

EDCA staff is responsible for the well-being of their customers both inside the shop and miles off the coast. On a typical day, EDCA is tasked with pushing kayaks in and out of powerful surf, caring for and assisting guests with sea sickness, hypothermia or exhaustion, coping and managing the different personalities of the general public, wrangling together drifting kayaks in the wind and currents, kicking kayaks in and out of a tiny sea cave entrance, barricading and blocking kayaks from slamming into the rocky cliffs, and/ or preventing kayakers from dragging across the human cheese-grater called Devil's Slide, all before the sun sets.

Throughout their tenure in La Jolla, Everyday California has happily worked alongside of the San Diego Lifeguards and continues to uphold their partnership with the highest regard.

While EDCA prides itself on it's highly trained and capable staff, there are unthinkable and unexpected accidents and scenarios that even the most skilled waterman could find themselves in. EDCA respects this reality and knows how and when to appropriately call on the help of the San Diego lifeguards when an emergency occurs. Kayak tours can sometimes be miles out, and EDCA staff must know exactly how to call on, signal and communicate with EMS in a timely and efficient manner. Surf, wind, sharp rocks, medical emergencies and even thick fog are just some of the obstacles encountered.

With sound leadership, knowledgeable management, trained and experienced staff, and the guidance of the San Diego Lifeguards, EDCA is fully ready and equipped to safely operate a Surf Camp in La Jolla Shores.



DOCUMENTATIONS & QUALIFICATIONS

As one of the original permitted kayaking companies in La Jolla shores, EDCA has continuously worked with the San Diego Lifeguards to establish and create the most optimal and safest kayaking experience for both the customers and the staff. EDCA intends on transferring that knowledge and experience into a safe and successful surfing operation. To ensure a professional and positive experience, listed below are a set of standards that EDCA will uphold:

1. All surf staff will be CPR certified for the professional rescuer by American Red Cross or its equivalent.
2. All surf staff will be First Aid certified for the professional rescuer by American Red Cross or its equivalent.
3. All surf staff will be Lifesaving certified instructors or a Waterfront Safety Specialist certification.
4. Class instructor to student ratio will be 1:5, unless rough conditions warrants a 1:4 or 1:3 ratio.
5. Surf Instructors will don a bright red long sleeve rash guard with the EDCA logo, "Surf Instructor", and "Everyday California" clearly printed on the front and back.
6. Customers will be wearing bright colored rashguards to clearly identify them as students or campers.
7. Every operating day, staffers will erect a 10 by 10 canopy to provide shade from the sun.
8. A city approved Sign will be posted at the site for public information.

Everyday California understands the importance of readiness and prevention. All employees are prepared to properly handle emergencies on the beach, in the shop, and out on the water. But first before employment, all surf instructor applicants will have to pass an in-water surf test before qualifying for an interview. This test will include but not limited to water conditioning, identifying water hazards such as rip currents, endurance, wave and surfer awareness, skills, technique and form.

In addition to the initial screening, applicants are then required to shadow a minimum of 5 surf lessons with an experienced instructor to gain real world, first hand practice. While it is encouraged that all EDCA new hires have a background in surfing, shadowing shifts enable EDCA to install a safety first mentality as the standard operating procedure.



PURPOSE & OBJECTIVES

The purpose of this emergency response plan is to establish procedures, responsibilities, and duties; to promote planning and to establish training for employees and individuals at EDCA in the event of an emergency.

Potential emergencies such as high winds, dangers along coastal geography, medical conditions, marine life encounters, surf zone collisions, hypothermia or shock, etc., may require instructors to perform specific actions to protect their own personal safety and the safety of all lesson or class participants, minimize uncontrollable consequences and assist the lifeguards. It is the intent of this plan to assist in pre-planning for these emergencies and to provide specific procedures in the event an emergency occurs.

EDCA understands the importance of readiness and prevention. All employees are prepared to properly handle emergencies on the beach, in the shop, and out on the water. It is mandatory that each employee, including all instructors and managers, complete the following certifications before leading a class or lesson: American Red Cross "Lifeguarding" (or its equivalent), American Red Cross CPR (or its equivalent) and American Red Cross First Aid Basic (or its equivalent). The following outlines EDCA objective strategies for the Emergency Response Plan.

CPR FOR THE PROFESSIONAL RESCUER

American Red Cross or Equivalent

1. Learn CPR (one and two rescuer)
2. Primary assessment
3. Ventilations including use of CPR breathing barriers and (BVM) Bag-Valve-Masks
4. Choking victims (conscious or unconscious)
5. How to use AED (automated external defibrillator)

BASIC FIRST AID

American Red Cross or Equivalent

Learn how to identify and care for victims from an array of injury and or illness

- a. Minimize shock
- b. Stop or control bleeding
- c. Treat people with heat or cold related injuries
- d. Call for and assist Professional Medical Personnel

AMERICAN RED CROSS "LIFEGUARDING" OR EQUIVALENT

1. 500-yard swim with a 20 yard 10lb object retrieval
2. Passive Submerged Victim in the surf break
3. Triage care for multiple victims
4. Head-hold Escape both front and back
5. Spinal stabilization in shallow water and deep water
6. Spinal stabilization for submerged victims
7. Using backboards in deep water
8. Circulation and controlled bleeding
9. Applying a "sling and binder"
10. Head/neck Immobilization on dry land

EMERGENCY RESPONSE PLAN

Conducting Water Rescues

SCENE SAFETY

Always make sure that you and your tour are positioned in a safe location. It is difficult to provide help and assistance if you become a victim, so make sure you and the rest of the group are out of danger.

Take into account other customers or unknown individuals out on the water, making sure to keep everyone out of the danger area to prevent more victims. During water based emergencies, lessons and classes will be instructed to leave the surf immediately and to regroup in front of the EDCA canopy.

When possible, the lead instructor will assist the person in distress, while the other staff will maintain a safe distance with the rest of the group. Staff will promptly notify the San Diego Lifeguards.

Dangerous conditions could be large waves, short interval surf, strong rip currents, sharp rocks, dense fog, and dangerous sea life.

SCENE ASSESSMENT

Keep an eye on the victim at all times. If there are multiple victims, then the instructor must determine who needs immediate assistance. Promptly alert the San Diego Lifeguards.

Determine if it is an illness or injury. An example for an injury would be falling on the board and hitting their head. An illness would be seasickness.

Other life threatening situations

- a. Allergic reaction
- b. Asthma attacks
- c. Psychologically induced panic

- d. Epileptic seizure
- e. Stingrays or other wildlife

Determine if emergency medical services will be needed.

Assess the victims for life threatening conditions, monitor their level of consciousness, and check their ABCs (airway, breathing, circulation or major bleeding).

TAKING ACTION

Reassure the victim and stay with them throughout the incident.

The Surf Instructors are highly trained to provide assistance in multiple water emergencies. They are required to respond to all emergencies but never use skills that are outside of their scope of practice.

Provide necessary care based on the training from the American Red Cross in CPR and in First Aid.

The Surf Instructors must use their skills to the best of their knowledge until professional medical rescuers arrive.

Once the instructor starts emergency care, they must not stop until help arrives.

SIGNALING EMERGENCY MEDICAL SERVICES

Anyone who requests medical attention, no matter how serious of an emergency, must be taken to a lifeguard or emergency response personnel.

In case of an emergency, the staff is instructed to dial 911, and request San Diego Lifeguard assistance.

Use **SAILS** while talking to dispatch. This acronym will help prepare the professional rescuers to better help the victim.

SEX: Report male or female (e.g., victim is a female)

AGE: Report a rough estimate on their age (e.g., mid 50's)

ILLNESS or INJURY: Report briefly what the problem or signs and symptoms are (e.g., complaining of heart pain, shortness of breath)

LOCATION: Report exact location (e.g., in front of Surf Site 1)

STATUS: Report on the status of the victim. This is similar to reporting the signs and symptoms but gives a more detailed description of the scenario. (e.g., The victim is breathing normal and continues to stay alert and oriented. I do not see any major bleeding.)

NON LIFE THREATENING EMERGENCY

These types of emergencies include, but are not limited to: small cuts, nausea, muscle fatigue and acute hypothermia.

Comfort the victim, reassure that they are being helped and or that help is on the way.

Move the victim away from any hazardous threats.

Using the skills and best practices described by the American Red Cross, apply the necessary first aid required to help the victim.

Get the victim to the beach for additional care as soon as possible.

Do not leave the victim until they are returned to a safe location.

LIFE THREATENING EMERGENCY

These types of emergencies include, but are not limited to: obstructed airway, unconsciousness, drowning, trauma to the head, severe seasickness.

Immediately call 911, ask for La Jolla Water Rescue service. Use **SAILS**.

Make sure the scene is safe, keep all other customers and bystanders away from danger.

Only move the victim if there is immediate threat to you or the victim.

Keep group together and under control.

Begin CPR or First Aid as necessary. Remember, once you begin CPR do not stop until instructed by Professional

- d. Epileptic seizure
- e. Stingrays or other wildlife

Determine if emergency medical services will be needed.

Assess the victims for life threatening conditions, monitor their level of consciousness, and check their ABCs (airway, breathing, circulation or major bleeding).

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Immediately call 911, ask for La Jolla Water Rescue service. Use **SAILS**.

Make sure the scene is safe, keep all other customers and bystanders away from danger.

Only move the victim if there is immediate threat to you or the victim.

Keep group together and under control.

Begin CPR or First Aid as necessary. Remember, once you begin CPR do not stop until instructed by Professional

Personnel.

Gather any information possible to help assist the Professional Personnel.

Before your shift is over, fill out a complete incident report and attach the liability form along with the lifeguard reports.

LAND EMERGENCIES

SCENE SAFETY

Determine that the scene is safe for yourself, other customers, and professional rescuers.

USE OF BODY SUBSTANCE ISOLATION

Latex gloves and a pocket mask are located in the bright orange emergency bag in the shop location. Use personal protective equipment.

Determine the nature of illness or mechanism of injury.

Determine the number of victims.

For non-life threatening emergencies, small cuts, nausea, muscle fatigue, and acute hypothermia:

Assess the scene and make sure both you and the victim are out of harm's way. Only move the victim if there is an immediate threat from the surrounding area.

Identify yourself and your level of emergency training.

Ask what the problem is, use H.A.M (History Allergies Medications) to help you and/or professional rescuers.

Use basic first aid to care for and comfort the victim. Walk the victim back to the shop or a safe location.

If additional care is requested or required, help the victim over to the lifeguard tower.

If an additional emergency arises or further resources are needed, call 911.

For Life threatening emergencies, unconsciousness, drowning, trauma to the head, severe seasickness:

Assess the scene and make sure both you and the victim are out of harm's way. Only move the victim if there is an immediate threat from the surrounding area.

Call 911. Use **SAILS**.

Assign an employee or a nearby person to contact the lifeguards and to help signal the position of the victim.

Begin to use First Aid and or CPR if the situation requires.

Continue helping victim until Professional Medical Rescuers arrive. Once they arrive on scene and take over, assist the emergency personnel.

Contact the general manager or owner immediately after.

Before your shift is over, fill out a complete incident report and attach the liability form along with the lifeguard reports.

PREVENTATIVE MEASURES

Accidents will happen. It is in the customer's, the community's, and EDCA's best interest that EDCA employees do everything possible to prevent accidents and minimize their negative consequences. EDCA promotes safety and uses multiple preventative standard operating procedures to help reduce the potentiality of emergencies.

INSTRUCTORS & STAFF

Equipped and Prepared

Besides completing many practical skills training courses and obtaining professional medical equivalent rescue certifications, instructors and staff must also dress the part. They wear tight fitting water wicking material like rash guards and neoprene. EDCA will issue red, 1mm rash guard uniform tops with the EDCA logo on the chest and SURF INSTRUCTOR or STAFF clearly marked on the back. Guides also use high SPF sunscreen, hats, and polarized sunglasses for sun protection. The EDCA site will also be equipped with a canopy on the beach to help prevent extreme exposure to the sun.

Sunscreen is readily available for our staff and for any students that may have forgotten to pick up some at the shop.

Wetsuits are highly recommended for both staff and guests as the water or air temperature starts to drop.

CONDITIONS ASSESSMENT

Opening managers call the San Diego Lifeguard beach conditions report and record the daily conditions. It is located on the entrance

wall of the shop for all employees and customers to view the current weather conditions. Conditions are monitored throughout the day and continually updated. If there are ever questions regarding safety in the ocean, lifeguards are immediately sought out to ask their opinion.

During the lessons, instructors will identify and point out any rip currents or hazards to the students.

If conditions are too dangerous, classes and lessons will be cancelled by the Manager on Duty, and classes will be rescheduled to a later date.

KNOW & UNDERSTAND THE CUSTOMERS

EDCA has customers from all different walks of life, some are water people and others are not. Instructors are taught to ascertain each participant's level of ability and adjust the lessons appropriately.

Identify the stronger, more advanced surfers who have surfed before, from those who are first timers.

There might be medical conditions that could be hidden but important to address before hitting the water.

PROPER GEAR & EQUIPMENT

For comfort and for safety, each client is prepped on what is appropriate to wear and what not to wear.

Bathing suits are mandatory, and neoprene always recommended with cooler temperatures. Each student will be provided with a brightly colored and logoed rashguard. Any cotton, denim, or other heavy materials are not allowed, and can be safely secured in our customer lockers in our flagship store.

For SUP lessons in utilizing the Boat Launch, life jackets are coast guard certified and are categorized in multiple sizes. Instructors will pick out the correct fitting life jacket. PDFs run from a youth size, to 5XL, adequately fitting a 6 year old to a large adult with up to a 70 inch chest.

BOARD MAINTENANCE

To maintain seaworthy surfboards and SUPs, each board is visually inspected before hitting the surf.

After every lesson, each board is properly rinsed off in the surf and checked for any cracks, divots, or tears.

Surf leashes are visually inspected before and after each lesson, and the Velcro strap is to be opened and closed to check performance. After the lesson, the leash is to be tightly wrapped around the board to avoid dragging and wear and tear.

Any board with cracks, delamination, or tears are immediately pulled out of the quiver and marked for repair. A manager is then notified to handle future repairs.

RENTAL PROTOCOL

Each morning the call to rent is made by the manager on duty. If renting is a go, no one hits the water without a mandatory safety briefing.

There are two rental briefings, one at the shop location in front of a giant La Jolla Shores map, and the final at the beach where swim zones, WAZ, or any beach hazards can be pointed out by a beach staff member at the EDCA site.

INSTRUCTOR TO STUDENT RATIO

It is well known by EDCA to maintain a safe instructor-to-student ratio. No instructor can ever take out more than 5 students at once. For younger students and campers, we will use a one to four ratio if conditions warrant increased safety measures. This is to make sure that EDCA staff can adequately handle any situation to the best of their ability and remain in compliance with regulations stipulated in Exhibit C.

BI-WEEKLY TRAINING PROGRAM

It is important to stay fresh and current with the best practices and procedures. EDCA conducts bi-weekly training to ensure guides remain in peak physical condition and aware of any changes made by Lifeguard Services or EDCA.

INCIDENT REPORTS

All of the accidents and incidents that happen are recorded by EDCA. Once the accident or incident has occurred, the EDCA employee that was on the water or on the beach at the time fills out the Incident Report Form. When the form is completed, it is attached to any related liability forms or paperwork from EMS and filed in the Incident/Accident report binder. The binder is located at the Avenida De La Playa shop. The general manager or company owner must be notified immediately.

INCIDENT REPORT

Incident Report Form

Date of Report: _____ Date of Incident: _____ Time of Incident: _____ AM PM

Facility Information

Facility: _____ Phone: _____

Address: _____ City: _____ State: _____ Zip: _____

Information on Person Assisted (Complete a separate form involving more than one person)

Name: _____ Age: _____ Gender: Male Female

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Work Home Cell Email Address: _____

Family Contact (Name and Phone Number): _____

Incident Data

Location of Incident (specific) _____

Description of Incident: _____

I, the participant, have read this Incident report and acknowledge that by signing below, the statements contained in this form are true and accurate to the best of my knowledge.

Participants Signature: _____ Date: _____

INCIDENT REPORT

Did an Injury Occur: YES NO

If yes, describe the type of injury and location on body: _____

Witness Statements

1. Name: _____ Phone: _____

Email Address: _____

Address: _____ City: _____ State: _____ Zip: _____

Witness Description of Incident: _____

2. Name: _____ Phone: _____

Email Address: _____

Address: _____ City: _____ State: _____ Zip: _____

Witness Description of Incident: _____

INCIDENT REPORT**Emergency Care Provider**

Where emergency medical services (EMS) personnel called? YES NO

If yes, by whom? _____

Time EMS personnel called: _____ AM PM

Time EMS personnel arrived: _____ AM PM

Was the victim transported to an emergency facility? YES NO

If yes, where? _____ If no, person returned to activity? YES NO

If the victim is a minor, were the minor's parents contacted (if not present)? YES NO

Facility Data

Number of lifeguards on duty at time of incident: _____

Weather conditions at time of incident: _____

Name(s) of any lifeguards involved in incident: _____

Lifeguard(s) signatures: _____ Date: _____

Report Prepared By:

Name: _____ Position: _____

Signature: _____ Date: _____

Attachments

Note any attachments such as EMS personnel report or follow-up conversations with victim and/or Parents or guardian.

Records Retention**EXECUTING THE EMERGENCY RESPONSE PLAN****QUICKLY SURVEY
THE SCENE**

Survey the scene in under ten seconds. Call the appropriate EMS (either 911 or the Lifeguard main tower: when dialing 911, surf instructors request San Diego Lifeguard Assistance and specify La Jolla Shores). Provide EMS with detailed and concise information in the S.A.I.L.S. format. Surf Instructors defer to EMS in all situations and assist as requested. Surf Instructors remain control of the rest of students and ensure they do not get in the way of EMS and ensure the continued safety of the rest of the group.

**CONSIDER LEVEL OF
TRAINING & RESCUE
SKILLS**

EDCA instructors and beach staff are trained to consider individual level of rescue skill prior to responding to a water rescue. Instructors are equipped with certifications in CPR for the professional rescuer and first aid. Instructors are required to respond to any water emergency while never exceeding their own capacities and to always defer to EMS.

**ENSURE PROPER USE
OF RESCUE EQUIPMENT**

Instructors are trained to use any protective equipment in the first aid kit to ensure their personal safety and to reduce the risk of blood borne pathogens. Instructors are trained to use safety and rescue equipment for their intended purposes only.

**SAFELY APPROACH
THE VICTIM**

Safely approach the distressed victim and determine the extent of the emergency; if there is more than one victim, instructors should determine which victim is in the most immediate need of assistance and respond accordingly. Assess additional hazards and conditions that may cause further injury and determine the appropriate response.

**PERFORM ANY
NECESSARY RESCUE**

Perform and rescue based San Diego Lifeguard and American Red Cross training. Continue talking to the victim and provide reassurance; provide the victim with any necessary rescue instructions.

**MOVE THE VICTIM TO
SAFETY**

Move the victim to safety, away from rocks, reef and/or cliffs, to an area free and clear of potential hazards only if they are in a position of danger. Perform an initial assessment and then provide the immediate necessary care to stabilize the victim so that he/she can be transported to the closest, safest land area to receive additional care or treatment that cannot be performed on the water.

REMOVE THE VICTIM FROM THE WATER

Remove the victim from the water to provide further necessary care. Return to the beach immediately with the victim and update EMS on location and direction of land reentry. Radio for assistance to the Beach Manager and Manager on Duty at the shop to confirm their location or point of entry back to land. Land based personnel will update EMS on the location of entry from the water and relay any other information they have if any changes occur. In extreme emergencies get the victim to the closest safest land area where the victim can receive immediate additional EMS care.

PERFORM PRIMARY SURVEY UPON RETURN TO LAND

Upon returning to land, perform a primary survey of the injuries or state of the victim and reassess the victim's condition. If EMS has not arrived or is not on the scene at the point of reentry, designate someone to call EMS again and update them on the victim's location.

PERFORM EMERGENCY CARE

Provide first aid, CPR or other additional care until emergency medical services arrive. Continue monitoring the victim's condition and providing the appropriate care until more advanced medical personnel arrive.

CLEAR THE AREA

If other instructors and students are in the water, they should be directed safely leave the surf zone and head to the EDCA canopy, where they can stay clear of the area until the emergency is over. Other beach staff should provide assistance as needed, including directing ambulance and Lifeguards to the precise location of the victim, getting blankets or towels to minimize shock, and keeping other clear of the emergency.

REPORT INCIDENT

After EMS have taken over the emergency, the responding employee is to return the shop and report to the Manager on Duty, fill out an incident report and contact the managing partners.

POTENTIAL EMERGENCIES

EDCA trains all staff members on potential emergencies that may arise during surf camp activities and lessons, and how to sufficiently address these emergencies. Some of these potential emergencies include, but are not limited to, submersion, injuries to the head and neck, severe bleeding, drowning and unconsciousness.

Other potential emergencies may arise including hypothermia, hyperthermia, paralyzing seasickness,

anaphylactic shock from marine life stings, dehydration, heart attack and diabetic shock.

By being able to recognize the signs and symptoms associated with these type of emergencies, tour guides can respond accordingly.

MARINE LIFE STINGS & ANAPHYLACTIC SHOCK

The Ecological Preserve is home to jellyfish and stingrays and many people may allergically react to the toxins from stings from jellyfish and stingrays. Symptoms of anaphylactic shock include swelling, quickly spreading rashes, lightheadedness and breathing difficulties.

Should a customer be stung by marine life in the water, the participant should be moved to land as quickly as possible. The victim should be taken to the nearest Lifeguard Station or EMS should be summoned, especially if the victim has a history of allergic reactions, or the victim is stung on the face, neck, chest or is having difficulty breathing.

When stung by a jellyfish, the victim may complain of burning sensations at the sting site. Soaking the affected area in white vinegar to offset and neutralize the toxin can treat such stings. If an allergic reaction ensues, the victim is at risk for anaphylactic shock and advanced medical care should be summoned and provided immediately.

Should a student be stung by a stingray, the victim should be immediately transported to the Lifeguard tower for treatment. Stingray stings are characterized by punctured skin and throbbing up the calf and leg. The venom from stingrays causes extreme, debilitating pain for hours after the initial wound. Typically, victims cannot walk for a length of time after being stung. Treatment for stingray stings typically includes inspecting the puncture site for remnants of the barb, in which case the remaining barb must be removed by EMS. The wound is then bandaged, and the victim's entire leg is immersed in very hot, non-scalding water for one or more hours. The hot water breaks down the proteins in the venom, alleviating much of the pain. Signs of infection should be monitored and a tetanus shot may be required.

COLLISIONS & TRAUMA TO THE BODY

In the event of that a collision occurs the first order of action is to assess the injuries. EMS should be summoned immediately, and the appropriate care should be provided until EMS arrives.

SEASICKNESS

Seasickness can result in other emergency conditions such as dehydration and can actually be contagious. Surf instructors look for

a sudden drop in energy or talkativeness, discoloration or paleness in skin tone, excessive swallowing and/or gagging. Should a student not be able to continue the lesson, instructors radio for assistance to the Beach Manager so that students that are unable to paddle may be taken back to shore.

HYPOTHERMIA

Hypothermia is a dangerous drop in body temperature typically caused by prolonged exposure to extreme cold. EDCA encourages students to rent wetsuits during especially cold times to prevent hypothermia. If a student is at risk for hypothermia, instructors or staff notify Lifeguard Services immediately. Instructors try to conserve the victim's energy as further exertion draws warm blood away from the core, where it is needed most. Further exertion also uses up energy reserves that the body needs to generate heat for the core and vital organ function. Excess wet clothing is removed, and measures are taken to stabilize and reheat the victim as much as possible. If the victim is immersed in water, the first thing to be done is remove the victim from the water.

Treatment for hypothermia once reaching land is to quickly get the victim indoors, remove any wet clothing and reheat them with blankets and dry clothing. Water consumption is vital to avoid dehydration if hypothermia has set in.

HYPERVENTILATION

The shock of cold water can cause erratic, shallow breathing and force a participant into over-breathing. Signs and symptoms of hyperventilation include weakness, dizziness, short, shallow breathing and pressure in the abdomen.

Victims are encouraged to take deep, slow breaths to relax and return to a state of calm. Instructors are to use training in voice modulation and continual talking to help victims return to a state of calm.

HYPERTHERMIA

Hyperthermia is caused by the body overheating and is characterized in stages including heat cramps, heat exhaustion and heat stroke. Heat stroke is severe and potentially life threatening. Heat cramps are usually a result of excess sweating. Profuse sweating depletes the body of moisture and salt, which can lead to painful muscle cramps. Heat cramps usually affect the abdomen, arms, or legs and can also be a symptom of heat exhaustion. Heat cramps can be treated by ceasing activity, cooling down in the shade or in cool water and through drinking liquids.

Heat exhaustion is caused when the body overheats and loses too much water and salt through sweating and the body struggle to maintain normal body temperatures. Symptoms of heat exhaustion include nausea, vomiting, fatigue, weakness, dizziness and muscle cramping.

Heat stroke results if heat exhaustion is untreated. Heat stroke occurs when the body's temperature rises to an abnormally high level because the body is no longer able to dissipate heat. Heat stroke is life threatening if untreated. Symptoms of heat stroke include the absence of sweating, red or flushed skin tones, rapid pulse, breathing difficulties, hallucinations, confusion, disorientation, and even seizure.

DEHYDRATION

Symptoms of dehydration include lightheadedness, dry mouth and muscle cramping. When instructors or staff recognize these symptoms, they can treat dehydration by having the victim remove clothing layers and encouraging the victim to drink water. Dehydration can result from prolonged exposure to the sun. Dehydration increases the risk of both hypothermia and hyperthermia making it important for tour guides to identify dehydration early and take the necessary steps to treat it appropriately.

EXTREME SUN EXPOSURE

EDCA encourages all students, staff and customers to wear secured sunglasses, sunscreen and lip balm when spending long durations of time on the beach. Sun exposure can have damaging effects on the body while out on the water even when it is not particularly hot.

These safety measure are extremely important for young children, the elderly and fair-skinned persons.

WATER CONTAMINATION EXPOSURE

EDCA adheres to any issued water contamination warning from Environmental Services to avoid water contamination exposure to tour participants and staff.

HEART ATTACK

Cardiac arrest is life threatening and requires the immediate calling for EMS. Symptoms of heart attack include shortness of breath, profuse sweating, nausea, persistent chest pain, radiating pain down the left arm, shoulder or neck. Stabilize heart attack victims and immediately call 911. Time is critical in heart attack emergencies.

INSULIN SHOCK, INSULIN REACTION & DIABETIC COMA

Customers affected by diabetes can store insulin shots or snacks to stabilize blood sugar levels in a dry box or dry bag. These items are to be in the possession of the beach staff to prevent insulin shock or diabetic coma. Symptoms of insulin shock include hunger, shakiness, dizziness, lightheadedness, confusion and feelings of anxiety or weakness, abnormal pulse and abnormal skin characteristics. In the event that insulin shock is suspected, the victim should be assisted to the shore immediately for treatment. Insulin shock can be treated by providing sugar to the victim. Beach staff carry a roll of lifesavers or sugar packets in their dry boxes at all times to accommodate this potentiality. If the victim's condition does not improve within a few minutes, EMS should be summoned immediately.

EMERGENCY RESPONSE PLAN FLOW CHART

LIFE-THREATENING SITUATION

*Medical Emergency
Drowning
Spinal Injury
Epileptic Seizure
Severe Open Wound
Shark Attack
Septic Shock from
Stingray*

*Assess the scene, ensure
you and victim are out of
harm's way, call 911, use
SAILS and administer first
aid or CPR if situation
requires, until EMS arrives*

*Once scene is clear
contact Director of
Operations or Owner, fill
out incident report and
turn it into management/
lifeguard services*

*Director of Operations or
owner will follow up with
injured customer*

NON LIFE- THREATENING SITUATION

*Laceration
Stingray, no septic shock
Panic Attack
Heat Exhaustion
Nausea
Muscle Fatigue
Acute Hypothermia*

*Assess the scene, ensure
you and victim are out of
harm's way, use first aid
skills and best practices
by the American Red
Cross. Comfort victim.*

*Once scene is clear
contact Director of
Operations or Owner, fill
out incident report and
turn it into management/
lifeguard services*

PREVENTATIVE MEASURES

Ensure conditions are safe, and keep your group of 5 or less students counted and accounted for at all times. Maintain spatial awareness with other surfers. Stingray shuffle. Discuss medical history with parents. Protect your students at all times.

EXHIBIT C: LIFEGUARD SERVICES SAFETY REQUIREMENTS

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

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

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

SUP's are required to have a leash.

7. Minimum Requirements for Instructors

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

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

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

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

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

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

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

8. Waivers

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

9. First Aid Kit

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

10. EMERGENCY RESPONSE PLAN FOR SURF CONCESSIONS

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

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

Ocean Conditions

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

General Rescue Procedures for Water Emergencies

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

General Rescue Procedures for Land Emergencies

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

Cellular Communications

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

Emergency Signals

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

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

Accidents, Injuries and Incident Slips

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

11. Termination of Surf Camp Operations

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

12. Notice of Violation

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

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

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