

BID SPECIFICATIONS

KAYAK INTERPRETIVE TOUR & RENTAL CONCESSION

Island Beach State Park (“Park”), Seaside Park, New Jersey

SCOPE OF CONCESSION

A. The Concessionaire shall be granted the exclusive right to operate interpretive kayak tours and to rent out kayaks on an hourly and daily basis (hereinafter referred to as “Concession Operations”). The Concession Operations shall be limited to the structure(s) or area(s) now provided by the Department of Environmental Protection (“Department”) for concession purposes in the areas specifically designated by the Department (hereinafter referred to as the “Concession Premises”).

B. Concessionaire shall use the Concession Premises solely for the purpose set forth above and is prohibited from selling or permitting the sale of any alcoholic beverages thereon.

C. Concessionaire status will be that of a licensee. Concessionaire will not, in any way whatsoever, be granted or conveyed any permanent easement, lease, fee, or other interest in the Concession Premises.

TERM OF AGREEMENT

The “Initial Term” of the Concession Agreement (“Agreement”) shall be from the Effective Date of the Agreement’s Initial Term to September 30, 2009. At the end of the Initial Term and prior to the start of any “Second Term,” a compensation analysis shall be completed. The Department, in its sole discretion, may extend the Agreement with Concessionaire to a “Second Term.” A Second Term would run from the Effective Date of the Agreement’s Second Term to September 30, 2010.

EFFECTIVE DATE

For the purposes of the Agreement, the Effective Date for the commencement of the Initial Term or any Renewal Term shall be the date on which the last of the following has occurred:

- (i.) The Agreement or any renewal agreement is signed on behalf of Concessionaire and Department;
- (ii.) Department dates the Agreement or any renewal agreement and forwards a copy to Concessionaire;
- (iii.) The Certificate of Insurance required under the Agreement is approved by Department;

- (iv.) Corporate resolution has been received by Department; and
- (v.) Department has approved all proposed prices for kayak rentals and interpretive kayak tours.

COMPENSATION ANALYSIS

After the expiration of the first (1st) year under the “Initial Term” of the Agreement, a compensation analysis will be performed to determine if the compensation amount will be increased, decreased, or remain the same for the Second Term. Based on the reported Total Gross Revenue and/or performance of the concession, the Department may choose to increase, decrease, or maintain the compensation amount. The total amount of annual compensation will be analyzed and may be adjusted to correspond with the Department’s existing rental rates for similarly performing operations.

REVENUE PAYMENTS

A. The total amount of annual compensation to be paid by Concessionaire to Department as consideration for the license and privileges granted to Concessionaire under the Agreement shall be paid in four (4) equal installments of the total amount of annual compensation on the first (1st) day of June, July, August, and September for each contract period.

B. All payments shall be made at the area office, by check made payable to "Treasurer-State of New Jersey". If the Concessionaire fails to pay said compensation at such time and in such manner as specified herein, such failure shall constitute grounds for termination of the Agreement.

C. All past due payments shall be assessed a monthly penalty of one and one-half percent (1½ %) of the total amount due calculated on the tenth (10th) day of each month.

D. In the event any check for payment is returned to Department, all future compensation payments must be made by certified or cashier check only.

E. The total amount of annual compensation shall be increased by three (3%) percent each contract period.

INTERPRETIVE KAYAK TOURS

A. Concessionaire will be permitted to operate interpretive kayak tours from a pre-determined, pre-approved kayak launch location on Barnegat Bay (See Attachment A). All transactions pertaining to payment for the interpretive tours will occur at the kayak rental office located within the marina portion of Island Beach State Park (See Attachment B).

B. A maximum of twenty four (24) patrons shall be permitted on each interpretive tour. There shall be no more than six (6) members of the interpretive tour staff, including at least one (1) interpreter, permitted on each interpretive tour.

C. Interpretive kayak tour patrons must have prior kayaking experience and be at least fourteen (14) years of age. Minor patrons must be accompanied by an adult, eighteen (18) years of age or older.

D. Concessionaire will provide interpretive kayak tour patrons with a Park gate-pass, pre-approved by the Department, if they are only entering the Park for the interpretive tour. If interpretive kayak tour patrons wish to visit in the Park before or after the tour, they must pay the Park entrance fee.

E. Interpretive kayak tour patrons will travel by caravan from the kayak rental facility at pre-approved times to parking lot A-21 for the interpretive tours. The patrons then shall walk a short distance to the Barnegat Bay kayak launch location to receive safety instructions and participate in the interpretive tour.

F. Concessionaire shall be permitted to access the roadway leading to the Barnegat Bay kayak launch location with a maximum of one (1) tow vehicle and one (1) kayak trailer, one-half (½) hour prior to any interpretive tour. Concessionaire may leave the tow vehicle and trailer in the siding at the kayak launch site until the completion of the tour. Concessionaire shall remove the tow vehicle and trailer from the kayak launch site within one-half (½) hour of completion of each tour.

KAYAK RENTAL OFFICE AND STORAGE AREA

A. Concessionaire will be permitted to use the kayak rental office portion of the SPS pre-determined building, which is located within the marina portion of the Park, for all business transactions and operations (See Attachment C). This will include but not be limited to payment, reservation, and scheduling of kayak rentals and/or interpretive kayak tours.

B. Concessionaire will be permitted to use the SPS pre-determined area to the left of the kayak rental office for storage of kayaks and related equipment. Storage will not be permitted in any other area of the Park.

C. Concessionaire will be permitted to allow kayak renters to enter the Barnegat Bay by way of a floating-dock, which shall be provided by the Concessionaire. Entrance to the Barnegat Bay via the floating-dock shall not require payment of the Park entrance fee. If kayak renters wish to visit the interior of the Park before or after renting a kayak, they must pay the Park entrance fee.

HOURS OF OPERATION AND LIMITATIONS

Interpretive Tours

The interpretive kayak tours will be permitted to operate twice daily, Monday through Friday, and once daily on Saturdays and Sundays at pre-approved times on the following dates, days, and hours:

DATES:	April 1, 2009	to	September 30, 2009
DAYS:	Sunday	through	Saturday
HOURS	8:00 a.m.	to	6:00 p.m.

Kayak Rentals

The kayak rental facility and operation will be permitted to open for business during the following dates, days, and hours:

DATES:	April 1, 2009	to	September 30, 2009
DAYS:	Sunday	through	Saturday
HOURS	8:00 a.m.	to	6:00 p.m.

Alternate hours may be determined and/or approved by the area superintendent.

CONSTRUCTION OR IMPROVEMENTS

A. Concessionaire shall not erect any structures, buildings, or additions to the Concession Premises without first obtaining the express written approval of the Department.

B. Concessionaire shall receive permission to construct a fenced-in storage area adjacent to the kayak rental office for the storage of kayaks and boating equipment. Materials, plans, and construction methods must be pre-approved by the Department prior to the start of construction.

C. Concessionaire will be permitted to install a floating-dock and entrance walkway at an SPS pre-determined location abutting the bulkhead and adjacent to the existing docks at the Park marina. The floating-dock will be limited to use by kayak renters for entering and exiting the Barnegat Bay.

PRICES

All prices for interpretive tours and kayak rentals shall be submitted to and approved by the Department in writing before any proposed price can become effective. Proposed prices to be charged must be submitted and approved at least thirty (30) days prior to initial opening of the concession and on a yearly basis thereafter for the duration of the Agreement. All prices shall be properly displayed in prominent places at all times. Price signage must be professional in appearance, neat, and made of weather-proof materials.

STAFF

Interpreter

A. Concessionaire must hire at least one (1) person with adequate knowledge of the local ecology to properly interpret the kayak tours throughout the concession season. At a minimum, the interpreter must hold a bachelor's degree in biology or in a similar environmental science related specialization.

B. The interpreter(s) must attain pre-approval from the SPS and must demonstrate an ability to properly interpret the wildlife and surroundings while leading a group of patrons during the interpretive kayak tours. After the awarding of the bid but prior to the Effective Date of the Agreement, the Concessionaire's interpreter shall perform a mock interpretive kayak tour before the SPS. The SPS shall pre-approve Concessionaire's interpreter if the interpreter is able to successfully perform a mock interpretive kayak tour and provide sufficient proof of his educational background.

C. If Concessionaire fails to attain an SPS-approved interpreter prior to the Effective Date of the Agreement, such failure shall constitute grounds for termination of the Agreement. The Department shall not be responsible for any loss or damage to Concessionaire associated with termination of the Agreement on such grounds.

D. At least one (1) SPS-approved interpreter must lead each interpretive tour.

Interpretive Staff

A. Concessionaire shall engage a sufficient number of reliable, competent, and qualified interpretive staff employees of legal age to operate the interpretive tours. For each interpretive tour consisting of ten (10) patrons or more, the Concessionaire must utilize no less than three (3) interpretive staff employees. For each interpretive tour consisting of less than (10) patrons, the Concessionaire must utilize no less than two (2) interpretive staff employees. At least one (1) interpretive staff employee for each interpretive tour must be an SPS pre-approved interpreter.

B. At least one (1) interpretive staff employee for each tour must be pre-approved by the Department as being certified in the proper administration of CPR and First Aid.

C. Interpretive staff employees must be knowledgeable and capable of instructing patrons on the proper and safe usage of kayaks before, during, and after the interpretive tours. Interpretive staff employees must be capable of aiding distressed kayakers during the tours and performing rescue maneuvers.

D. Concession interpretive staff employees shall wear apparel and name tags to identify and distinguish themselves as interpretive staff employees. The type of apparel and identification must be pre-approved by the Department.

Kayak Rental Staff

A. Concessionaire shall engage a sufficient number (i.e. no less than two (2) persons for each shift) of reliable, competent, and qualified staff of legal age to operate and manage each kayak rental facility covered by the Agreement, to provide security for the staff, and to meet the needs of the public unless an alternative staffing plan is approved by the superintendent in writing. Any approved alternative staffing plan shall be attached to and made a part of the Agreement. If Department determines that Concessionaire has not provided a sufficient number of reliable, competent, and qualified staff of legal age to operate and manage the Concession Premises, Concessionaire shall, immediately upon receipt of written notification from Department, correct the staffing deficiencies described in said notice. If the deficiencies described in said notice are not corrected by Concessionaire immediately upon receipt of written notification, the Department reserves the right to do the following: (1) suspend Concessionaire's operation of the Concession Premises, pending correction of the deficiencies; (2) obtain the service of reliable, competent, and qualified staff of legal age to operate said concession facility for Concessionaire for the remainder of the then current operating season; or (3) terminate the Agreement. Concessionaire shall compensate any staff obtained by Department for the remainder of the then current operating season and shall reimburse Department for all costs incurred by the Department in obtaining appropriate staff. Concessionaire shall not be entitled to any abatement of revenue payment due to any suspension or other action taken by Department under this Paragraph, and Department shall not be liable to Concessionaire, or any party claiming through Concessionaire, for any claim, liability, or damages resulting from said action by Department.

B. Concession kayak rental employees shall wear apparel and name tags to identify and distinguish themselves as concession kayak rental employees. The type of apparel and identification shall be pre-approved by Department.

RECORDS AND AUDIT

A. Concessionaire shall maintain complete, accurate, and detailed accounting records of all transactions pertaining to each of the Concession Operations covered by this Agreement that will allow Concessionaire to prepare financial statements in accordance with generally accepted accounting principles. Concessionaire shall make such records available to any authorized representative of Department upon request, as often as it is deemed necessary by Department, to determine the effectiveness of the financial management system and internal procedures that have been established by Concessionaire to ensure compliance with the terms and conditions of the Agreement and that the financial statements, cash register receipts, and reports fairly present the results of Concessionaire's operations pursuant to this Agreement. Said records shall be maintained and made available to Department for a period of six (6) years after the termination or expiration of the Agreement.

B. All sales shall be recorded by means of cash registers that publicly display the amount of each sale and automatically issue a customer's receipt or certify the amount recorded on a sales slip. Said cash registers shall, in all cases, have locked-in sales totals and transaction counters that constantly accumulate and that cannot, in either case, be reset. In addition, such cash registers must have a tape located within the register upon which transaction numbers and sales

details are imprinted. Beginning and ending cash register readings shall be recorded on a daily basis. In the event of technical or electrical failure of the cash registers. Concessionaire shall record all transactions by hand and issue a sequentially pre-numbered customer's receipt in like manner.

Each cash register must have the following:

- Dual Tape/Readable tape (customer must be offered a receipt)
- Customer display
- Continuous grand total
- Cumulative "Z" counter
- Current printed date on detail tape

DAILY RECEIPTS AND BANK ACCOUNT

A. Under the Agreement, Concessionaire is required to maintain a daily record of all gross receipts derived from the Concession Operations. This record shall be available at all times. Concessionaire also shall maintain daily "Z" reports that provide a breakdown and accounting of all sales activity for each day.

B. All cash received by Concessionaire shall be deposited into a single bank account maintained at a bank located within the State of New Jersey and maintained solely for subject Concession Operations, through which all financial transactions (including but not limited to deposits, withdrawals, and purchases) must pass.

MONTHLY REPORT

On or before the tenth (10th) of each month during operation, Concessionaire shall provide Department with the following: (1) a "Monthly Concession Report" containing a Statement of Total Gross Receipts, excluding New Jersey State Sales Tax, derived by Concessionaire from operation of the Concession and any other Concession-related operation approved by Department during the previous month; (2) the daily "Z" tapes for that month showing each day's sales activity; and (3) the number of patrons participating in the interpretive tours on a daily and monthly basis.

ANNUAL REPORT

Concessionaire shall submit to Department, no later than November 15th of each year the Agreement is in effect, an Annual Financial Statement including the following: Total Gross Revenue; Cost of Sales; Operating Expenses; and Net Profit from State Park Concession Operations. Said financial statement shall be signed and certified by a Certified Public Accountant (CPA) or shall be attached to a letter signed by a CPA certifying the information is truthful and accurate.

COMPLIANCE AND PERFORMANCE EVALUATION

Mandatory concessionaire evaluation and compliance review meetings shall be conducted annually during three (3) specified time periods. The meetings shall review all aspects of the

operation to ensure that quality public services are being provided on a continual basis in accordance with the bid specifications and the Agreement, that operational problems/concerns are addressed on a timely basis, and that all terms and conditions are clearly understood. The meetings shall be held on site with appropriate State Park Service staff, the on-site concession manager, and a management/supervisory representative of the concession firm. An evaluation form shall be utilized to document the evaluation meeting, which will identify any deficiencies and the corrective action required. A copy of the completed evaluation form shall be provided to the on-site concession manager or the management/supervisory representative of the concession firm and shall be attached to and made a part of the Agreement. The mandatory meetings shall be conducted annually during the following time periods:

- Meeting #1 - During the month of May, prior to Memorial Day weekend.
- Meeting #2 - During the first two (2) weeks of July.
- Meeting #3 - During the two (2) weeks immediately after Labor Day.

INTERPRETIVE TOUR EQUIPMENT AND RENTAL EQUIPMENT

A. Concessionaire shall provide a minimum of twenty-five (25) kayaks to meet the public demand for both interpretive tours and for hourly or daily rentals. However, Department reserves the right at any time to limit the number of kayaks offered for public rental. Concessionaire shall provide Coast Guard approved personal flotation devices (PFD's) for all interpretive tour patrons and all occupants of rented kayaks. Concessionaire also shall provide any other equipment and devices as may be required by the U.S. Coast Guard and the Department. All equipment to be rented or provided by the Concessionaire must be approved by Department prior to usage. All interpretive tour kayaks and rental kayaks must be marked and clearly identifiable.

B. Kayaks shall not exceed twelve (12) feet in length and shall be constructed of aluminum and/or fiberglass.

C. Concessionaire must provide the necessary personnel and equipment to be able to respond to situations involving rented vessels, disabled rented vessels, and retrieval of rented vessels, etc. during all hours of rental operation.

MAINTENANCE OF STRUCTURES AND EQUIPMENT

A. Concessionaire shall preserve and maintain in good and clean condition, reasonable wear and tear expected, all State structures and equipment now installed or which may hereafter be installed or located on the Concession Premises. Concessionaire is solely responsible for the interior maintenance of all structures and equipment, as well as the cleanliness of the Concession Premises.

B. Upon expiration or termination of the Agreement, Concessionaire shall deliver up peaceable possession of the Concession Premises and State-owned equipment, if applicable, to Department in as good and clean condition as the Concession Premises and equipment were delivered at the commencement of the Agreement, reasonable wear and tear excepted. In the event that Concessionaire does not deliver up possession as herein provided, Department may restore the

Concession Premises and equipment to such condition, and the cost thereof shall be paid by Concessionaire to Department within fifteen (15) days of Department's demand for payment.

GARBAGE DISPOSAL, RECYCLING, AND BIODEGRADABLE MATERIALS

A. Concessionaire shall be responsible for maintaining the cleanliness of the Concession Premises. Concessionaire shall ensure placement of all garbage and trash generated by the Concession Operations in designated containers and that said containers are emptied daily, or as more frequently required by the Department, at a location within the Park designated by the Department. Disposal costs from this location shall be borne by the Department. Concessionaire shall provide such additional trash containers as may be required to keep the immediate Concession Premises clean at all times. The type of trash containers provided by the Concessionaire shall be approved by the Department prior to installation.

B. Concessionaire shall comply with any and all recycling requirements and regulations promulgated by the Department's Office of Recycling.

C. Any wrappings, containers, bowls, plates, cartons, or cups that are not intended for reuse must be composed of biodegradable material. Biodegradable material is defined as follows: MATERIAL CAPABLE OF BEING BROKEN DOWN FROM A COMPLEX MOLECULAR STRUCTURE INTO SIMPLER GASSES AND ORGANIC COMPOUNDS BY LIVING MICROORGANISMS.

D. No glass containers of any kind shall be used in the dispensing of food and/or beverages.

UTILITIES

Concessionaire is responsible for the payment of any utility charges related to the Concession Operations during the term of the Agreement, except to the extent that said charges are attributable to the Department's use of the Concession Premises.

TAXES AND ASSESSMENTS

All taxes and assessments, if any, arising out of the use and occupancy of the Concession Premises and the Concession Operations shall be paid by Concessionaire. If any tax or assessment may be legally paid in installments, Concessionaire shall have the option to pay such tax or assessment in installments, except that each installment thereof and all interest thereon must be paid by the final date fixed for the payment thereof, and in the event that the whole amount thereof is not paid prior to the expiration of the Agreement, payment shall remain a continuing obligation of Concessionaire after the expiration or termination of the Agreement. Concessionaire shall furnish to Department, within ten (10) days of demand thereof, proof of the payment of any such tax or assessment.

RULES AND REGULATIONS

Concessionaire shall comply with all rules and regulations promulgated by the Department and all applicable rules and regulations promulgated by the New Jersey State Department of Health and Senior Services.

ADVERTISEMENT AND PROMOTION

A. Concessionaire shall not advertise in any manner or form on or about the Concession Premises or any other part of Island Beach State Park, except by means of such signs or forms of advertising as first shall be approved by the Department.

B. Concessionaire shall, in all promotion and advertisement of the Concession Premises and any scheduled event(s) at or pertaining thereto, provide that the Concession Premises is administered by the State of New Jersey, Department of Environmental Protection, Division of Parks and Forestry, as part of Island Beach State Park.

C. Prior to the implementation of any and all promotion and advertisement of the Concession Premises and any scheduled event(s) at or pertaining thereto, Concessionaire shall submit, and obtain Department's written approval of, all plans for promotion and advertisement of the Concession Premises. Such approval shall not be unreasonably withheld. In the event that Department does not approve or disapprove an advertisement or promotion plan within fifteen (15) days of receipt thereof, said advertisement and promotion plan shall be deemed as approved.

INDEPENDENT PRINCIPAL

Concessionaire's status shall be that of an independent principal and not as an agent or employee of the Department.

INDEMNIFICATION

A. Concessionaire shall, for itself, its successors, and assigns, assume all risk and liabilities arising out of the management, maintenance, and operation of the concession and covenants to defend, protect, indemnify, and save harmless Department and each and every of its officers, agents, employees, successors, and assignees and hereby releases Department and each and every of its officers, agents, employees, successors, and assignees from and against any and all such liabilities, losses, damages, costs, expenses (including, reasonable attorney's fees and expenses), causes of action, suits, claims, demands, or judgments of any nature arising from the following:

(i) any injury to, or the death of, any person in or on or any damage to property which occurs in, on, or about the Concession Premises or upon any sidewalk, walkway, or patio within the Concession Premises or in any manner growing out of or connected with the use, non-use, condition, or occupancy of the Concession Premises or the construction or repair of any improvements of the Concession Premises;

(ii.) any act, error, or omission of Concessionaire, its agents, servants, employees, contractors, invitees, and anyone claiming by or through Concessionaire in the performance of the Agreement; and

(iii.) violation of any agreement or condition of the Agreement by Concessionaire, its agents, employees, contractors, invitees, and anyone claiming through Concessionaire of any contracts and agreements of record concerning the Concession Premises and restrictions of record or any law, ordinance, or regulation affecting the Concession Premises or any part thereof or the ownership, occupancy, or use thereof.

B. Department shall, as soon as practicable after a claim has been made against it, give written notice thereof to Concessionaire, along with full and complete particulars of the claim. If a suit is brought against Department or any of its agents, servants, and/or employees, Department shall expeditiously forward or have forwarded to Concessionaire every demand, complaint, notice, summons, pleading, or other document received by or then in the possession of Department or its representatives.

C. It is expressly agreed and understood that any approval by Department of Concessionaire's operation of the Concession Premises shall not limit the obligations of Concessionaire assumed pursuant to the Agreement.

D. Concessionaire's liability under this Paragraph shall continue after the termination or expiration of the Agreement with respect to any liability, loss, expense, or damage resulting from acts occurring prior to such termination or expiration.

E. Concessionaire's indemnification obligations are not limited by, but are in addition to, the insurance obligations contained in the Agreement.

INSURANCE

A. Concessionaire shall, for each of the Concession Operations described in the Agreement, secure and maintain, in full force and effect on or before the date that Concessionaire is required to commence annual operation of the Concession Premises under the Agreement and throughout the term of Concessionaire's annual occupancy thereof, the following types and amounts of insurance coverage:

1. Public liability as broad as the standard coverage forms currently in use in the State of New Jersey which shall not be circumscribed by any endorsements limiting the breadth of coverage. The policy shall be endorsed to include the following:

- (a.) Broad Form Comprehensive General Liability;
- (b.) Premises/Operations;
- (c.) Products/Completed Operations;
- (d.) Protection and Indemnity; and
- (e.) Concessionaire owned, operated, or non-owned motor vehicles.

The limits of liability for Bodily Injury and Property Damage shall not be less than One Million Dollars (\$1,000,000.00) per occurrence combined single limits for each location covered by the Agreement.

2. Worker's Compensation and Employer's Liability insurance applicable to the laws of the State of New Jersey with limits of at least the following:

- (a.) \$100,000.00 Bodily Injury per Occurrence
- (b.) \$100,000.00 Disease per Employee
- (c.) \$500,000.00 Disease Aggregate Limit

3. Property insurance to cover loss or damage on an "All Risk" of physical loss form of coverage against fire, loss, theft, and damage on the contents of the Concession Premises owned by Concessionaire. Said insurance shall be in an amount not less than the appraised value of those contents. Concessionaire shall obtain and provide, at its own expense, an appraisal of the contents owned by Concessionaire for the purpose of obtaining and maintaining the aforementioned insurance.

4. Such other insurance, and in such amounts as may from time to time be reasonably required by Department in consultation with Concessionaire, against other insurable risks which at the time are commonly insured against in the case of similarly situated operations with due regard to the type of improvements and type of use and operations to be conducted by Concessionaire under the Agreement.

5. The limits of said policies described in (1) through (4) above shall be increased from time to time to meet changed circumstances, including but not limited to changes in the purchasing power of the dollar, as measured by changes in the United States Consumer Price Index and changes indicated by the course of plaintiffs' verdicts in personal injury actions.

B. All insurance policies providing the coverage required under the Agreement shall be obtained from an insurance company authorized to do business in the State of New Jersey and shall, except for Worker's Compensation Insurance under the Agreement, name the State of New Jersey, Department of Environmental Protection as an "Additional Insured." Prior to the date that Concessionaire is required to commence annual operation of the Concession Premises, Concessionaire shall provide Department with a current certificate of insurance, in form and substance satisfactory to the Department, showing that Concessionaire has obtained the insurance coverage required in the Agreement for each of the Concession Operations. The certificate shall provide that the insurance coverage shall not be canceled for any reason, except after thirty (30) days' written notice to:

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF PARKS AND FORESTRY
OFFICE OF CONCESSIONS
P.O. BOX 404
TRENTON, NEW JERSEY 08625-0404

The certificate of insurance shall also provide for thirty (30) days' notice, in writing, to the Department prior to any expiration or non-renewal during the term the insurance is required to be maintained in accordance with the Agreement. Concessionaire shall further be required to provide Department with valid certificates of renewal of the insurance upon expiration of the policies, except where otherwise provided in this Paragraph. Concessionaire also shall, upon request, provide Department with copies of each policy required under the Agreement certified by the agency or underwriter to be true copies of the policies provided by Concessionaire.

C. In the event that Concessionaire fails or refuses to renew any of its insurance policies to the extent required by the Agreement, or if any policy is canceled, terminated, or modified so that the insurance does not meet the requirements of the Agreement, Department may immediately suspend all of Concessionaire's operations on the Concession Premises until Concessionaire obtains insurance coverage in satisfactory form and in compliance with the Agreement or may proceed to default Concessionaire and terminate the Agreement.

D. Concessionaire expressly understands and agrees that any insurance protection required by the Agreement shall in no way limit Concessionaire's obligations under the Agreement and shall not be construed to relieve Concessionaire from liability in excess of such coverage, nor shall it preclude Department from taking such other actions as are available to it under any provisions of the Agreement or otherwise in law or equity.

COMPLIANCE WITH LAWS, LICENSES, PERMITS, AND INSURANCE POLICIES

A. For the duration of the Agreement, Concessionaire shall obtain, pay for, maintain, and comply with all licenses, permits, authorizations, or any other documents required by any applicable government agency having jurisdiction over the Concession Premises or the conduct of Concessionaire's operations thereon. Concessionaire shall provide Department with written evidence that such applicable licenses, permits, authorizations, or other required documents have been obtained no later than ten (10) days prior to commencement of the activity or operation covered by the license, permit, authorization, or other documentation as shall be required by the Agreement.

B. Concessionaire shall, at its sole cost and expense, comply with all duly promulgated and applicable federal and State laws, rules, ordinances, or orders affecting the conduct of the Concession Operations described in the Agreement.

C. Concessionaire shall comply with the requirements of all insurance policies required by the Agreement.

D. If Concessionaire:

(i.) receives a notice of failure to comply with the insurance required by the Agreement;

(ii.) is issued a summons or any notice of violation of any license, permit, certification, authorization, approval, or any similar instruments required by any governmental

authority having jurisdiction necessary to maintain and operate the Concession in accordance with the provisions of the Agreement; or

(iii.) is issued a summons for violation of any duly promulgated and applicable federal, State, county, municipal, and other governmental laws, rules, orders, or ordinances affecting the Concession Premises or any part thereof,

Concessionaire shall immediately forward a copy of the notice of non-compliance, summons, or notice of violation to Department, and Concessionaire shall have such amount of time to correct said violation as is prescribed in the notice or summons. If such violation is not cured within the prescribed period or any extension thereof, it shall be deemed a material breach of the Agreement, and Department, in addition to declaring a default of the Agreement by Concessionaire, may suspend Concessionaire's operation of all or the affected portion of the Concession Premises.

E. Concessionaire shall indemnify Department against all liability, claim, loss, or payment of any kind arising from Concessionaire's failure or omission to comply with any such insurance policy, license, permit, certification, authorization, approval, or any applicable federal or State law, rule, ordinance, or order.

PUBLIC USE

Concessionaire shall not be construed as to affect the privileges accorded to the public's use of the area or to restrain or prevent individual persons or groups of persons from bringing their own kayaks, boats, or recreational equipment into the Park.

NO DISCRIMINATION

A. Concessionaire shall comply, in the performance of the Agreement, with all applicable State, federal, and local statutes, rules, and regulations relating to discrimination and affirmative action, including but not limited to N.J.S.A. 10:2-4, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., and Title IV of the Civil Rights Act of 1984 (P.L. 88-352).

B. Concessionaire shall not discriminate on the basis of age, national origin, race, creed, color, sexual orientation, or sex in the use of the Concession Premises by the public.

PAYMENT ABATEMENT

A. In the event that Concessionaire is unable to operate the Concession as a direct result of the performance, failure to perform, or negligent performance of the Department, its officers, agents, and employees of any act under the control or responsibility of Department, Concessionaire may be considered for an abatement of revenue payment for the period that the Concession cannot be operated. Circumstances for consideration of abatement shall include but not be limited to disruption caused by construction activities in or around the Concession Premises and interruption of utility service.

B. To be eligible for consideration for payment abatement, Concessionaire must submit to Department a written abatement request signed by the Park Superintendent setting forth specific details and circumstances comprising the grounds for abatement and the amount of abatement requested. Said request must be submitted to Department, for approval by the Director of the Department, within twenty (20) days of any cause for which abatement is claimed.

C. Neither cancellation nor closure of any interpretive kayak tours or kayak rentals due to inclement weather shall be eligible for abatement.

D. All abatement awards shall be adjusted, disbursed, or credited after all final reports and payments are received.

REVOCACTION CLAUSES

A. Concessionaire covenants that the decision of the Commissioner of the Department, relative to the performance of the terms of the Agreement, shall be final and conclusive.

B. In the event of default of the successful bidder or his refusal to enter into a contract with Department, the Department reserves the right to accept any other qualified bidder.

REJECTION OF PROPOSAL

The Department reserves the right to waive any informality in or to reject any or all bids.

CORPORATION

A. For any Concessionaire that presents itself or represents itself as a corporation operating or doing business in the State of New Jersey, all papers of incorporation shall be provided to Department, along with renewals, changes, or any other documents that in any way affect the current or future status of Concessionaire as a legal corporation.

B. Concessionaire shall adopt a resolution authorizing the execution of the Agreement by Concessionaire. Concessionaire shall submit a copy of said resolution to the Department prior to execution of the Agreement by Department.

ASSIGNMENT OF AGREEMENT OR SALE OF INTERESTS

Concessionaire shall not assign the Agreement or sell controlling interest in any of the Concession Operations without first obtaining the express written approval of Department.

OPERATION AND MANAGEMENT PLAN

A. Along with the bid document, if qualified, Concessionaire must submit to the Department in writing an Operation and Management Plan ("Plan") for the Initial Term and potential Second Term of the Agreement and obtain Department's written approval thereof. The Plan shall include the following:

1. The procedure to be used to prepare complete, accurate, and detailed accounting records;
2. Schedule for hours of operation involving any dates or hours that the Concession Premises may be open outside of the parameters set forth;
3. Schedule of prices for kayak rentals and interpretive tours to be provided by Concessionaire;
4. Schedule of all staffing requirements (both managers and laborers), hours of work shifts, days off, and scheduled breaks, all in accordance with federal and State labor laws;
5. Description of the proposed uniforms and name tags to be worn by interpretive tour staff and kayak rental staff;
6. Written report of Concessionaire's inspection of all State-owned equipment and structures contained within the Concession Premises;
7. Written maintenance plan for the upkeep of all equipment and structures located within the Concession Premises;
8. Confirmation that all deposits have been paid, connection dates, and payment plan for any and all utility services necessary for operation of the Concession Premises in compliance with the Agreement; and
9. Insurance agents (by name, address, and contact person) and name of insurance company that will provide insurance coverage.

B. As approved by the Department, said Plan shall be incorporated into and made part of the Agreement. Concessionaire shall not change, modify, or deviate from the Plan without first obtaining the express written approval of Department.

PAY TO PLAY

A. Bid applications are subject to the provisions of N.J.S.A. 19:44A-20.13 et seq. and N.J.S.A. 19:44A-20.26 et seq. (P.L. 2005 c.51 and P.L. 2005 c.271) (collectively "Pay to Play"). Compliance with these acts shall be a material term and condition of the bid application and will be binding upon the parties thereto upon entering the Agreement. All bidders must complete the following enclosed forms in accordance with their instructions and submit them with their applications: (1) Ownership Disclosure Form; (2) Contractor Certification and Disclosure of Political Contributions Form; and (3) Vendor Certification and Political Contribution Disclosure Form.

B. Bidders are advised of their responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271, section 3) if the contractor receives contracts

in excess of Fifty Thousand (\$50,000) dollars from a public entity in a calendar year. It is the contractor's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

MANDATORY ON-SITE BID MEETING

A. A mandatory on-site bid meeting will be scheduled for all qualified bidders prior to the acceptance of final bids. The meeting will include the following: clarification of major Agreement requirements; an inspection/walk-through of the Concession Premises; and Department responses to questions from potential bidders.

B. Any potential bidder not present at the mandatory on-site bid meeting will be disqualified from this bidding process.