

Indiana State Parks  
402 W Washington St, Rm W298  
Indianapolis, IN 46204

## CONCESSION OPPORTUNITY ANNOUNCEMENT

### A Business Opportunity for Operating the Boat Rental & Gas Dock Concession at Cecil M. Harden Lake (Raccoon State Recreation Area)

Parke County, Indiana



#### Mission

*The mission of Indiana State Parks is to conserve, manage, and interpret our resources while creating memorable experiences for everyone.*

#### Vision

*The vision of Indiana State Parks is excellence in stewardship, recreational diversity, interpretation, service, and growth resulting in unique places that people respectfully use, enjoy, and cherish.*

## The Setting

Located in west-central Indiana on State Road 36 in Parke County, Cecil M. Harden Lake is 50 miles west of Indianapolis and 35 miles northeast of Terre Haute.

Cecil M. Harden Lake was constructed by the U.S. Army Corps of Engineers (USACE) and opened in 1960. The property is operated and maintained by the Indiana Department of Natural Resources (DNR), under a lease arrangement with USACE. The main functions of Cecil M. Harden Lake are to control flooding, provide recreation, and manage the natural resources.

The property comprises 2,005 acres of land with a 2,060-acre lake and has an average annual attendance of 1 million visits. Surrounded by numerous species of trees, Cecil M. Harden Lake is a naturalist's delight. Wildflowers, berries, nuts, and mushrooms grace the wooded areas of this property. Minutes from the property is the site of the Parke County Covered Bridge Festival that draws thousands of visitors every October.

## Activities

1880s Roller Mill Tours / Corn Grinding  
Demonstrations  
Nature Center / Interpretive Services  
Picnicking / Picnic Shelters  
Fishing / Ice Fishing  
Hunting  
Archery Range  
Wildlife Viewing Areas  
Hiking Trails  
Playground Equipment  
Basketball / Volleyball Courts

Boat Ramps [5 locations]  
Boat Rental & Gas Dock [concession-operated]  
Swimming / Beach  
Water Sports  
Campground  
    Electric [240 sites]  
    Non-Electric [ 37 sites]  
    Primitive [35 sites]  
    Youth Tent Area  
    Water Fill / Dumping Stations  
Camp Store & Gift Shop

## Gate Fees

Indiana State Parks has a philosophy of user fees and has collected gate fees since its inception in 1916. Gate fees not only provide self-generated revenue from users, but gate operations also provide a form of property security.

Currently, the gate fees at Cecil M. Harden Lake (Raccoon State Recreation Area) are \$7 per vehicle with an Indiana license plate, and \$9 per vehicle with an out-of-state license plate. This rate is subject to change at any time, with approval of the Indiana Natural Resources Commission. Once a guest pays the entrance gate fee or shows an annual entrance pass, they are allowed to use other services in accordance with property rules and regulations. If there are charges for other services in the park, guests are required to pay for those charges in addition to entrance gate fees.

Guests with camping reservations pay an entrance gate fee (*or show their annual entrance pass*) upon initial entry into the property and receive a camping reservation hang tag upon check-in; this camping reservation hang tag allows overnight guests to enter the property without paying additional gate fees for the duration of their camping stay. Only registered campers are allowed entry into the park after 11 p.m.

Employees reporting for work and commercial vehicles making deliveries or providing service and maintenance to the park and its facilities and concessions do not need to pay the entrance gate fee but must identify themselves and sign in at the gate house. Employees wishing to use the property facilities on personal time are required to pay the daily gate fee or present an annual entrance pass.

## I. The Offering

This is a Concession Opportunity Announcement offered by the Indiana Department of Natural Resources. This announcement solicits expressions of interest from all persons who wish to be considered for operating the Boat Rental & Gas Dock Concession within Cecil M. Harden Lake (Raccoon State Recreation Area).

The Department of Natural Resources (DNR) requests that all persons—*individuals, corporations, or partnerships*—interested in operating the Raccoon Boat Rental Concession submit a proposal to the DNR in the manner described in this announcement.

This announcement is intended to publicize the availability of the contracting opportunities described herein. This is not an Invitation to Bid, nor is it a Request for Proposal under the Indiana Procurement Code. The State of Indiana creates no obligation, expressed or implied, by the issuance of this announcement or by the receipt of any proposals requested herein. The award of any contract as a result of this announcement shall be at the sole discretion of the issuing agency. Neither this announcement nor any proposal submitted in response hereto are to be construed as legal offers.

## II. Services to be Provided

### **Boat Rental**

The operating season for the boat rental is generally mid- to late-April through October.

The Concession Operator shall provide a variety of boats for rent in sufficient quantity, size, and rentals shall be reasonably priced. The operator shall employ suitable employees to operate the concession, shall maintain the facility in a clean and inviting manner, and shall carry out all terms and conditions as indicated in the Concession Agreement.

The DNR reserves the right to accept or reject any item offered for sale by the concession, if it is felt that the item is either harmful or of a questionable nature. It is suggested that gifts, apparel, and souvenirs be nature-oriented, promote outdoor recreation, and support natural resources and conservation.

If vending at the docks is specified as part of the Concession Agreement, machines must be kept serviced and clean. If a machine breaks down, it must be repaired and fully operational within 24 hours of service request.

The attached EXAMPLE ONLY Exhibit A – Concession Agreement details specific duties, responsibilities, and other areas, such as prohibited items and reporting requirements; therefore, it is suggested that all potential bidders become familiar with this agreement and how it may affect the proposal.

### **Concession Revenue History**

2021	\$651,742	
2020	\$780,011*	*Record visitation
2019	\$395,883	
2018	\$377,118	
2017	\$373,525	
2016	\$337,186	
2015	\$245,332**	**Significant flooding occurred in the summer of 2015

### III. DNR Concession Agreement

The DNR Concession Agreement is expected to be awarded based upon the proposals submitted in response to this announcement. The Agreement will be for a minimum of one (1) year and a maximum of four (4) years, covering the 2022-2025 contractual seasons.

DNR expects that the Agreement will be fully negotiated and available for execution on or before February 15, 2022. The Agreement will require that the concession operator be prepared and available to commence operations on or before April 15, 2022.

Depending upon the nature of the concession and the circumstances of the operator, the State may require that the operator post a performance bond or other assurance of performance.

Under the Agreement, the operator will be required to provide and secure all supplies (i.e., boating and marine items, food and beverage items, souvenirs, etc.), services, employees, and other resources needed to successfully operate the concession. The availability of State-owned equipment for use by the concession operator varies by property and concession.

**It is strongly recommended the proposer contact the Property Manager and make arrangements for viewing the layout of the concession area and facility building(s) prior to submitting a proposal.**

### IV. Proposal Submission

All persons who desire to be considered for a DNR Concession Agreement **must submit a proposal no later than 3:00 PM on Friday, December 17, 2021.** The proposal should address each of the following points described under section V. Proposal Content of this announcement. All information included in the proposal shall be considered a matter of public record, unless specifically exempted by Indiana Statutes, I.C. 5-14.

**Three (3) copies of the proposal should be submitted to:** Tessa Manuel  
Concession & Contract Program Manager  
Indiana Dept. of Natural Resources  
Division of State Parks  
402 W Washington St., Rm # W298  
Indianapolis, IN 46204

The mailing envelope should clearly be marked with “DNR Concession Proposal – Raccoon SRA – Boat Rental” in the lower left-hand corner. **All proposals must be received by 3:00 PM on Friday, December 17, 2021. Proposals received after the submission deadline will not be accepted.**

### V. Proposal Content

Proposal should address the following points:

#### **1. Identification of Interest**

The concession desired must be specifically identified. If more than one concession operation is requested, proposals may be combined for concessions located within the same DNR property. Combined proposals must address each element of information requested for each concession. Each combined proposal must also indicate whether the operator is interested in operating each concession individually or whether the proposal

must be considered on an “*all or none*” basis. If not indicated as “*all or none*” the award may be split between proposers as deemed in the best interest of the State.

## **2. Description of Good and Services**

The proposal shall describe the goods and services to be offered to the public by the operator. The description must be in sufficient detail to permit an evaluation of the scope of the concession offered. The proposal shall be as complete as possible.

## **3. Payment to the State**

The proposal must describe the proposed payment and basis for payment (i.e. percentage of gross receipts or other method) to be made to the State of Indiana in consideration for the Agreement. The terms of the payment and any limitations or conditions must be clearly described. The proposal should include an estimate of the total payment to be made under the agreement.

## **4. Concession Operations**

### **a) Operations**

The proposal shall include a pro forma statement for the operation of the boat rental concession. This statement shall include all projected revenues and expenses for the operation. This statement shall provide enough detail for the State to determine the validity of the projections and to ascertain that the operator has a viable opportunity to make a profit. The proposer shall also provide detailed information regarding the operation of the concession.

The minimum level of information required will include the following items:

- Pro forma statement with projected gross receipts, expenses, and anticipated net profit
- Statement of days and hours of operations
- Number of employees utilized, categorized by job function and schedule (shift) assignments
- Equipment to be supplied by the operator
- Equipment to be supplied by the State
- Anticipated inventory levels
- Detailed action to be taken to improve the appearance of the concession operation and area (e.g. indicate if employee uniforms will be required)

### **b) Management**

The proposal should contain a description of the management method to be utilized in maintaining the highest possible level of service to the public.

A detailed description of the duties of key personnel should also be outlined, along with the resumes of key personnel; a listing of key personnel should include the employee's name, address, and date of birth. Limited criminal history checks will be performed by the State and DNR, and as such, signed statements from the owner/operator and key personnel granting permission to conduct said checks should also be included. The proposer also agrees to a criminal history background check.

If appropriate, the proposal should address training to be provided to employees. The proposal should describe any plans or policies to be implemented by the operator to provide for the participation of minorities in the concession operation.

### c) Finance

The proposal should describe the method by which the concession operation will be financed and the levels of capital to be devoted to the concession operation. The proposal must indicate the range of prices to be charged to the public for the offered goods and services (e.g. types of boats, price per hour). The operator's commitment, if any, to the individual retail price levels should be stated.

The proposer shall indicate the source of funds needed to operate the concession. If the funds are from a commercial source, the proposer must include a letter of commitment from the financial institution.

The State may require the proposer to submit a financial statement upon request.

### d) Efficiency

The proposal should describe the operator's innovative approach to improving the level of service to the public at the concession. Any prior experience in the implementation of service-oriented suggestions must be described. The proposal must also indicate the experience that the owner/operator and key personnel have in operating the type of concession described herein and length of service in this type of operation. The proposal must also list professional references, noting the name, address, phone number, and email address for each.

## VI. Proposal Evaluation

Each proposal submitted in response to this announcement will be reviewed and evaluated by individuals designated by the Director, Department of Natural Resources.

The proposal evaluation will consider the following factors, which are listed in order of descending importance:

- Level of the service to the public
- Adequacy of resources to fulfill the operating plan (including management plans, personnel, financial resources, etc.)
- Consideration to be paid to the State of Indiana
- Level of commitment to develop the facility

The DNR Director will, in exercise of their discretion, determine which proposal presents the opportunity to satisfy the best interests of the Department and the State. The Director's decision, in exercise of their discretion, will be considered final. Following the selection of the intended concession operator, the precise contractual terms and conditions will be negotiated, which may reflect all items discussed in the proposal, in addition, but not limited to, all terms and conditions set forth by the Department and State.

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**Following is an EXAMPLE ONLY Exhibit A to a Concession Agreement. All details contained herein represent sample verbiage only and should not be construed as the terms and conditions of an eventual contract resulting from this business announcement. All dollar amounts, percentages, and hours of operation may be considered negotiable, are subject to change, and can vary by contract. This sample does not include the State of Indiana boilerplate language that will be included in the final contract.**

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# **EXAMPLE ONLY: Exhibit A for boat rental and gas dock/store operation**

## **EXHIBIT A:**

### **GENERAL CONCESSION REQUIREMENTS**

#### **1. AUTHORITY**

Pursuant to IC 14-19-1-2, the State provides facilities for the use and enjoyment of the public. The responsibility of the State is to either operate or contract for the operation of the facilities so as to maximize service and benefit to the public according to approved standards. Duties set forth herein outline the granting of this Contract for the operation of a **BOAT RENTAL AND GAS DOCK/STORE CONCESSION at Cecil M. Harden Lake (Raccoon State Recreation Area)** ["Concession"] according to those standards of maximum use, service, and benefit to the public in a manner that does not impact the State adversely in any way. This Contract grants the right to the Contractor to provide only the goods and services specified within this Contract for only the operations and areas for the Concession specified within this Contract. It is understood that the State shall make all decisions related to the management of the property where the Concession is located, including which concession operations shall or shall not be located on the property.

#### **2. COMPLIANCE WITH REGULATIONS**

**A. DNR Regulations.** The Contractor shall adhere to all DNR General Property Regulations as found in 312 IAC 8, 312 IAC 5 (if applicable), and 312 IAC 9, and successor regulations. These rules and regulations are duly promulgated pursuant to IC 4-22-2 and have the force and effect of law.

#### **3. STANDARDS OF ABILITY**

**A. Financial Competence.** The Contractor assures competence and financial ability to perform the work contemplated in the Contract and agrees, upon request, to furnish the State with evidence of competency and financial ability before the granting of the Contract, and anytime during the term of this Contract.

**B. Operational Supervision.** The Contractor shall give the business daily, personal supervision and shall operate the business under the Contract according to law. The Contractor shall be present at the Concession at all times that it is open for business or shall be represented by a responsible person. The Contractor shall establish, maintain, and operate the Concession in such manner as to provide the prescribed services to the public according to the best standards prevailing for a similar business. State operational standards of the Concession with respect to the quality of service rendered, hours the concession is open, accepted sanitation, proper exterior building maintenance, and other operational matters as the State may designate shall be determined by IDNR Property Management.

#### **4. STANDARDS OF RESPONSIBILITY**

**A. No Unnamed Partners.** The Contractor assures there are no unnamed partners legally interested in or having authority over the operation or management of the concession and further assures that the Contractor is the only person responsible for carrying out the duties as written in the Contract.

**B. Outside Vendors.** Only with prior agreement and written approval from the State, the Contractor may periodically have an outside vendor work for a specified, limited time on the property, only when such events fulfill Contractor responsibilities and expand daily Concession operations beyond standard capabilities. Written approval must be granted by the State thirty (30) days in advance of the Contractor hiring the outside vendor.

**C. Subcontracts.** The Contractor may execute subcontracts for services as the manager of the business authorized under the terms of this Contract. The subcontracts must include provisions that absolve the State of any obligation to the subcontract, and that automatically terminates the subcontract upon the termination of this Contract. Furthermore, any and all such subcontracts must include language for automatic termination in the event that the State enters into a direct agreement of exclusivity with a specific provider. The Contractor shall indemnify, defend, and exculpate the State from any liability which may accrue or be asserted against the State under all contracts or agreements.

## **5. CONCESSIONAIRE FEES**

**A. Fee Structure.** The Concessionaire Fees ("Fees") payable by the Contractor to the State for the rights and privileges conveyed in this Contract shall be as marked below. Fees may be negotiated for subsequent contract terms.

*The Contract fee shall be equal to:*

- ❖ *1% percent of all gross fuel sales*
- ❖ *7% of gross income including ice, vending, groceries, watersports toy rentals, oil sales, and all other gross receipts generated from dock store sales*
- ❖ *25% of gross income of all dock slip rentals*
- ❖ *Boat rental fees shall be paid at:*
  - *10% gross income for 2018 season*
  - *12% gross income for 2019 season*
  - *15% gross income for 2020 season*
  - *20% gross income for 2021 season*

**B. Gross Income.** Gross income shall be the total amount of all the receipts in cash, credits, property, or interest of whatever kind received by the Contractor from all business done under the provisions of this Contract. However, gross income shall not include deferred credits, internal sales, sales tax receipts, nor other taxes which may be required to be collected from guests, nor any part of the receipts which constitute repayment by guests of monies advanced on their behalf and for their convenience by the Contractor.

**C. Reporting.** By the last day of the first month of a new concession year, the Contractor shall provide a sales and income report by revenue department for the Contractor's previous year of operation. Contractor shall include in this report the amount collected from customers for all sales during the previous year.

**D. Payment of Fees.** Payment of the Fees shall be the first expenditure among all operating expenses incurred and shall be received by the State on or before the eighth (8<sup>th</sup>) day of each month for the entirety of the preceding calendar month.

**E. Late Payment Interest.** Rental fees due and payable to the State which are not paid in accordance with this section of the Contract shall bear and accrue interest daily until paid at the rate of 1-1/2% per month, or a flat late fee of \$50.00, whichever is greater. Repeated violations of timely payment may result in the termination of this Contract by the State as defined within this Contract.



## **6. STATE BUILDINGS, GROUNDS, AND EQUIPMENT**

The State is responsible for the general management of the property on which the Concession is located. The granting of this Contract to the Contractor for the operation of the Concession **DOES NOT GRANT THE CONTRACTOR EXCLUSIVE RIGHTS TO THE ENTIRE PROPERTY** where the Concession is located.

- A. Designated Buildings and Equipment.** The State has provided the below-listed buildings and items of equipment for use by the Contractor for the sole purpose of conducting the Concessions outlined within this Contract.

*One (1) dock store/bait house; one (1) dock system that includes 25 open, single-entry slips and a covered fuel dock; two (2) bridges to shore; one (1) above-ground 3,000 gal. fuel tank; one (1) pump-out station located SE of boat rental; one (1) new fuel pump with two (2) hose reels and all fuel lines; and one (1) gated employee parking lot.*

*The pump-out station, fuel pump with two (2) hose reels, and all fuel lines are under a 1-year Warranty, and as such, the Property will be responsible for all repairs. After the 1-year warranty period is over, the Contractor will be responsible for maintaining and keeping in good repair the pump-out station and fuel system.*

*Contractor shall be responsible for maintaining and keeping in good repair the dockage, rub rails, sideboards, fire extinguishers, dock lockers and keys, and ring buoys and flotation devices.*

- B. Concession Area.** The licensed premises and assigned boundaries ("Concession Area") – that are to be used by the Contractor for the sole purpose of conducting the Concessions operations in strict accordance with all terms and provisions imposed by this Contract – are as follows:

*The Concession Premises shall be defined as: all docks and slips and surrounding areas; bridges and pathways leading to the concession; employee parking lot; area surrounding the pump-out station; and approximately 200 feet into the portion of the lake area that can be used for anchoring boats on high attendance and/or summer holiday weekends.*

*Once the Property Manager and Contractor agree on the number of boats that can be anchored in the surrounding lake area, this list will be kept on file at the Property Office. The grassy knoll area located above the dock store/bait house shall not be used for storage of trailers, motors, boats, or any other general storage.*

- C. Agreement of Use.** The Contractor is aware of and agrees that it shall use, occupy, and maintain the Concession Area in a business-like, careful, clean, and non-hazardous manner that conforms to all State and Federal laws, regulations, and/or requirements. Written approval by the State shall be required for other proposed use in conjunction with or in addition to those specified in this Contract. Contractor will practice all environmental and usage controls as outlined within the Contract and incorporated herein. Contractor further agrees that it shall permit no waste, nor suffer the same to be committed, nor injure, nor misuse the Buildings, Grounds, and Equipment owned by the State.
- D. Equipment.** The Contractor agrees to accept equipment on an "as-is" basis. Any repairs required shall be at the sole expense of the Contractor. Any items of equipment that the Contractor does not wish to accept shall be removed by the State in a timely manner. The Contractor agrees to furnish the concession at the Contractor's own expense with additional items of equipment as directed by the State. The State shall not be responsible for any loss of product or sales due to the malfunction of any equipment owned by the State.

- E. Alteration of Buildings and Equipment.** The Contractor shall not modify water supply lines, waste lines, electric lines, or other utility, machinery, or fixtures except upon written permission from the State. The Contractor shall not install, move, or alter any permanent or temporary equipment belonging to the State in or about the Concession Area.
- F. Return and Disposition.** The Contractor shall return State-owned buildings, supplies, and equipment to the State at the termination of this Contract in a condition equivalent to that in which they were received by the Contractor. If the State determines the need for cleaning after the Contractor returns the use of the Concession, the Contractor must reimburse the State for all costs incurred for such cleaning.
- G. Option to Purchase.** Upon the termination of this Contract for any reason, the State, or any person designated by the State, shall have the first option to purchase from the Contractor all on-hand supplies and equipment of the Contractor at the original cost or at their market value, whichever is less. However, the State or such designated persons are not obligated to purchase such items.
- H. Lien and Inspection.** To secure the payment of the Concessionaire Fees, the State is given a lien on all personal property belonging to the Contractor, which may be located on the assigned premises and used in the operation of the business conducted under the Contract. The Contractor hereby authorizes the State to file a Financial Statement, UCC-1. The State and/or any Federal parties with an interest in this Contract, at any and all reasonable times reserves the right to enter the Concession Area, without prior notification, for inspection and/or investigative reasons. This includes, but is not limited to, the State's right to install and operate surveillance equipment in or on the premises within the Concession. Evidence obtained through personal, mechanical, electronic, or any other technological or other means may be used by the State in civil and/or criminal actions brought against the Contractor. The Contractor shall keep the Concession Area free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by Contractor during the term of this Contract or any extension or renewal thereof.
- I. No Sublets.** The Contractor shall not assign this Contract or any interest therein, nor let or sublet the said premises or any part thereof or any right or privilege appurtenant thereto, nor permit the occupancy or use of any part thereof by any other person. Said let or sublet shall be grounds for termination of the Contract by the State.
- J. Coin-Operated Amusement Machines.** The Contractor shall not permit or provide for the installation of mechanical rides, pinball machines, coin-operated amusement machines, jukeboxes, (music boxes, record players), or similar devices in or about the Concession Area.
- K. Vending Equipment.** The Contractor shall secure written approval from the State prior to installation within the Concession Area of any vending equipment not owned by the State. The plan of operation of vending equipment, including the percent of revenue paid to the State, shall be on a basis satisfactory to the State. Revenue shall be entered on the records in the same manner as other revenue is reported.
- L. Utilities.** The Contractor shall pay all utilities used in or about the Concession Area as marked below, whether billed to the Contractor by the State or billed directly to the Contractor by any utility provider.
- |                               |                                |                                   |
|-------------------------------|--------------------------------|-----------------------------------|
| <u>      x      </u> Electric | <u>      x      </u> Telephone | <u>          </u> Natural Gas     |
| <u>          </u> Sewage      | <u>      x      </u> Water     | <u>          </u> Trash Removal   |
| <u>          </u> Television  | <u>      x      </u> Internet  | <u>          </u> Security System |
- M. Snow Removal.** The Contractor is responsible for all snow removal within the Concession Area.

- N. Alcohol.** At no time shall the Contractor or employees sell, display, store, or consume alcohol in the Concession Area or anywhere within the property where the Concession operation is located. Failure to comply with this provision may result in immediate termination of this Contract.
- O. Parking.** The Contractor and all employees of the Contractor shall park in areas designated by Property Management. The designated parking area may be changed by the State to facilitate construction or to protect the public or the property. The State is not responsible for damage or theft to vehicles of the Contractor or the Contractor's employees.

## **7. MAINTENANCE AND SANITATION**

The Contractor is responsible during the term of this Contract for routine maintenance, repair, sanitation, and cleanliness as defined herein of the identified buildings and items of equipment listed in above Section 6(A) of this Exhibit. The Contractor shall follow all standards and rules for sanitation and safety, as established by the Indiana State Board of Animal Health, the State Department of Health, and the State Fire Marshal.

- A. State Responsibilities.** The State shall be responsible for maintenance, repairs, and sanitation not assigned to the Contractor, including major repairs or replacement of the structure of the buildings, and the heating, air conditioning, ventilation, and other utility systems.
- B. Fixtures and Furnishings.** The Contractor shall maintain, keep in repair, and redecorate, whenever necessary, the interior of the building(s) and shall maintain and keep in repair all fixtures, furnishings, and equipment of the State provided for use by the Contractor. The maintenance, repair, and decorating of the interior of all buildings and the maintenance and repair of plumbing, heating, lighting, and other fixtures, as associated with daily use, shall be done by the Contractor to the approval and satisfaction of the State.
- C. Cleaning and Janitorial Services.** The Contractor shall perform cleaning and janitorial services within the Concession Area. These services include, but are not limited to, the cleaning of all floors, windows, and fixtures, and the replacement of light bulbs.
- D. Cleanliness.** The Contractor shall maintain standards of cleanliness, which will reflect favorable public opinion on the Contractor and the State. The State may perform or have others perform the duties of the Contractor under this Section, if the State determines the Contractor has failed to maintain an acceptable standard of cleanliness. The Contractor shall pay the cost of such work, whether performed by the State or by others, at the discretion of the State.
- E. Trash Removal.** The Contractor shall collect and deposit, in approved sanitary containers for disposal by the State's representative, all garbage, waste, and debris from the building and grounds within and surrounding the Concession Area. The Contractor shall keep the Concession Area in a clean and sanitary condition and in conformity with standards and rules for sanitation and public health. Contractor agrees to either pay, as billed by the Property Manager, the cost of trash removal for the assigned area, or remove trash from the property in another fashion agreed upon by the State. Perishable trash shall be removed daily.
- F. Recycling.** The Contractor shall make an aggressive and affirmative effort to implement the use and sale of recyclable or biodegradable items including, but not limited to, paper plates, cups, napkins, and non-toxic cleaning supplies. Trash shall be separated into types of recyclable materials: glass, paper, metal, plastic, aluminum, and disposed of appropriately. The plastic rings on 6-pack cans will each be cut before disposal to prevent small animals from getting caught in them, which causes injury or death.

## **8. OPERATING SCHEDULE**

The Contractor shall be in full and complete operation with a full staff of employees for every business day within the term of this Contract, from the opening on the first day of the term to the closing on the last day of the term.

**A. Hours and Days of Operations.** The State and the Contractor shall keep the BOAT RENTAL AND GAS DOCK/STORE CONCESSION open and available to public patronage in accordance with the following *minimum days/hours of operation*:

- **April 15-May 1**
  - *Saturdays & Sundays – 9am—6pm*
- **May 2-Labor Day**
  - *Sundays thru Thursdays – 9am—6pm*
  - *Fridays & Saturdays – 9am—8pm*
- **After Labor Day-Covered Bridge Festival (mid October)**
  - *Saturdays & Sundays – 9am—6pm*

**A. Schedule Posting.** The Operating Schedule of the Concession shall be posted and routinely updated in visible, open, and public locations at the Concession Area, and on the Contractor's website (if applicable) no later than the first day of operation outlined in the term of this Contract.

**B. Visitation.** The State does not guarantee a specific number of visitors to the Concession during the Operating Schedule and accepts no responsibility for the lack of visitors for any reason.

**C. Schedule Deviations.** Any non-scheduled deviation from the operational schedule must be approved in advance and in writing by the State unless circumstances beyond the control of either party make it necessary to take emergency action.

**D. Holidays.** Contractor may close on certain holidays as pre-approved in writing by the State.

**E. Extended Hours of Operation.** The Contractor may operate longer hours than indicated herein without receiving the State's permission. However, the Contractor must not operate before or after the dates of the term of this Contract, unless specifically provided by an authorized and fully executed Amendment to the Contract.

**F. Emergency Closures.** In emergency situations, the Contractor must immediately report the circumstances to the State and provide a written summary to the State within 24 hours after the emergency is concluded. Closures due to weather must be approved or initiated by the State. Emergency closures must be posted immediately in visible locations at the Concession Area, on the Contractor's website (if applicable), and on the telephone voice mail greeting for the Concession.

**G. State Closures.** The State shall keep the Concession open and available for use by the public in accordance with the Operating Schedule unless the State makes written or verbal determination that funds are not appropriated or otherwise available to support the agreed upon schedule. The State shall notify the Contractor at the earliest possible convenience so that the Contractor can make any necessary changes to the operation of the Concessions.

**H. Failure to Operate.** If the Contractor is not in full operation for the entirety of the term of this Contract (except for causes wholly beyond the control of the Contractor and not involving neglect by the Contractor), this Contract, at the option of the State, may be terminated without notice. Upon termination, the State may re-enter the premises and obtain a new Contractor for the

operation of the facilities. In addition, the State may assess liquidated damages of \$50.00 per day, per facility for each day that any facility remains out of service because of non-performance by the Contractor or until a new Contractor is put in place.

## **9. ADMINISTRATION**

### **A. Scope**

The concession granted under the provisions of this Contract is as follows:

*The Contractor has the right to offer for rent:*

- *open, single-entry boat slips*
- *personal watercraft (maximum 4)*
- *pontoon boats*
- *paddle boards*
- *kayaks*
- *motorized ski boats*
- *watersports toys & equipment (e.g. pull-behind tubes)*
- *fishing poles*
- *other items as approved by the Property Manager*

*The Contractor has the right to offer for sale:*

- *fuel*
- *ice*
- *food and beverages and other groceries*
- *bait and tackle and fishing equipment*
- *marine accessories*
- *recreational-related magazines*
- *Coast Guard Approved personal flotation devices*
- *watersports toys & equipment (e.g. wakeboards)*
- *motors, trailers, and other boating accessories*
- *other items as approved by the Property Manager*

*The Contractor may offer packaged programs and services in conjunction with community businesses and organizations. The Contractor retains the right to install vending machines at the dock store/bait house. In addition, the Contractor has the right to charge marine batteries for use with rental boats.*

If food sales are permitted under this agreement, food may be prepared only if the Contractor provides at least the minimum facilities necessary for the safe preparation and service of foods in accordance with IC 16-42-5. Contractor must request and obtain the approval of the Assistant Director of Inns and Concessions and the Indiana Department of Health prior to installation and use of such food facilities.

### **B. Vending**

Vending machines should blend into each property's natural surroundings. All efforts shall be made by the concessionaire to achieve this directive.

### **C. Cash Register and Tapes**

The Contractor shall furnish at least one (1) cash register(s) equipped with the following cash control features:

- a. Cumulative, Non-Resettable Totals – originally designed, or mechanically adapted, with “tied-up” totals.

Totals that cannot be reset with a key or otherwise.

- b. Audit Tape – shall include provision for printing of total-to-date (sub-total) on itemized tape (Sales Journal).
- c. Sales Indication Window – visible from both sides.
- d. Closed-Drawer Operation – originally designed or mechanically adapted to closed-drawer operation only. Not convertible to open-drawer operation with a key or otherwise.

Cash registers shall be kept in full view of the public. Sales shall be registered in the presence of the customer. All cash register journal tapes shall be sent to the Department of Natural Resources, Division of State Parks & Reservoirs, with the applicable monthly report and the Employee Cash Count Receipts (DNR 92). All cash, long or short, shall be entered on the monthly report.

A Department representative must approve the cash register furnished by the Contractor.

#### **D. Non-Resettable Reading Totals**

At locations where it is deemed feasible by the Assistant Director of Inns and Concessions for the operation of a cash register with the above listed features, the Contractor and a representative from the property shall take a reading from the non-resettable totals when the concession both opens and closes for the season. These readings will be sent to the Assistant Director of Inns and Concessions to be filed with the Contractor's file.

#### **E. Pre-numbered Tickets or Receipts**

If the Department determines the requirements for cash register equipment described in Section D (5) are not practical, the Contractor shall issue a receipt or pre-numbered ticket. If the Department approves the use of a receipt, such receipt form shall be supplied by the Department and charged to the Contractor. If pre-numbered tickets approved by the Department are used, the Contractor shall account for all pre-numbered tickets.

#### **F. Use of Form DNR 92**

An Employee's Cash Count and Department Receipt (Form DNR 92) shall be written at the end of each shift or daily to cover all receipts for the period. The original is to be given to the employee and the duplicate copies of all Form DNR 92's issued during the month shall accompany the monthly report to the Department.

#### **G. Use of Form DNR 352**

The Contractor shall complete a DNR 352 Boat Rental Receipt, or another 3-part pre-numbered boat rental receipt for any boat rental at the facility. Any receipts other than a DNR 352 boat rental receipt, must be approved by the Assistant Director of Inns and Concessions and shall be a 3-part form to provide a copy to the customer, the Contractor, and the Department; these forms shall be pre-numbered by the printing company. The printing company shall provide directly to the Department a confirmation of forms numbered which shall indicate any and all series of numbers printed, inclusive of the beginning and ending numbers.

#### **H. Monthly Reports**

By the eighth (8th) day of each month, the Contractor shall have in the Department office a monthly report for the preceding calendar month showing all income, the Employee Cash Count Receipts (DNR 92), which shall be used for each day of operation at each location, and the corresponding cash register tapes or DNR 352 receipts, whichever is appropriate to the operation. All overages and shortages shall be entered on

the monthly report. All sums due to the Department shall be attached to the monthly report in the form of checks made payable to the Department of Natural Resources. The required forms supplied by the Department shall be charged to the Contractor.

#### **I. Accounting Records**

Regardless of the method of payment of the Contract Fee, the Contractor shall keep or cause to be kept accurate books, records, and accounts of its operations under the Contract separate and apart from other operations. The Contractor shall make all reports concerning the operation available to the Department at such times at the Department may require. Separate accounting records shall be maintained for each facility operated under the terms of this agreement.

Books and records of account shall be kept in a form and manner satisfactory to the Department. The Contractor's records of operation shall be open to inspection and audit by the Department and its designated representative at all reasonable times during business hours. The right of inspection and audit shall exist during the term of the Contract Agreement and for a period of three (3) years after the term of the Contract.

#### **J. Audits**

Following the expiration of this Contract, the Contractor shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor's fiscal year. Contractor agrees to provide the Indiana State Board of Accounts and the State an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or subsidiary corporation of the Contractor, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State. The audit shall include a statement from the Auditor that the Auditor has reviewed this contract and that the Contractor is not out of compliance with the financial aspects of this Contract.

#### **K. Lien and Inspection**

To secure the payment of the Contract Fee, and/or damages the Department is given a lien on all personal property belonging to the Contractor, which may be located on the premises licensed and used in the operation of the business conducted under the Contract and Contractor hereby authorizes the Department to file a Financial Statement, UCC-1. The Department reserves the right to enter the licensed premises, without prior notification, at any time for inspection and/or investigative reasons. This includes, but is not limited to, the right to install and operate surveillance equipment in or on the premises within the licensed area. Evidence obtained through personal, mechanical, and electronic or any other technological or other means may be used by the Department in civil and/or criminal actions brought against the Contractor.

#### **L. Utilities and Connectivity**

The Contractor shall pay all electric current, water, sewage, and other utilities used in or about the concession when billed either by the Department or by any utility company. For utilities with a fixed rate, that rate shall be:

*The Contractor shall pay all municipal utilities directly to the utility providers. Contractor will reimburse to the Property the cost of utility connectivity at the dock store/bait house as billed by the Property.*

**M. Taxes**

The Contractor shall pay all federal, state, or local taxes, assessments, or fees which are, or which may become, legally chargeable to the business operated under the terms of the Contract.

**N. Cancellation by Secretary of the Army**

This Contract may be cancelled in the event of the cancellation, for any reason, of the lease from the Secretary of the Army, to the Department of Natural Resources. The Contractor warrants that he/she is not an employee of the United States government or a member of any governmental body.

**O. Piers**

The Department may provide and install piers; however, the Contractor shall keep all piers in repair, to the satisfaction of the property manager, during the term of this Contract.

**P. Structures Erected by Contractor**

The Contractor may, during the term of this Contract, erect structures and provide equipment upon the premises, which temporary structures and equipment shall be and remain the property of the Contractor, provided; however, that no structure may be erected or altered upon the premises unless and until the design and proposed location or alteration thereof is approved in writing by the Department.

Upon termination of this Contract, the Contractor shall remove his/her property from the premises and restore the premises to a condition satisfactory to the Department; reasonable wear and tear and damages resulting from no fault of the Contractor excepted. If the Contractor fails to do so, the Contractor shall pay to the Department all costs expended by the Department for restoration of the premises.

**Q. Use of Premises**

The Contractor shall not permit or suffer any offensive use of the premises, or the commission of waste thereof; shall not cut timber or native shrubs except as approved in writing by the Department; shall not remove sand, gravel, or kindred substances from the ground or substantially change the contour or condition of the property unless approved in writing by the Assistant Director of Inns and Concessions.

**R. Use of Water**

No attempt shall be made by the Contractor to impede the full and free use by the public of the water area of the Reservoir or Lake.

**S. Boating Laws**

The Contractor shall adhere to all Indiana boating laws, rules and regulations. These include, but are not limited to, IC 14-15-2, IC14-15-7-5 et. seq., 310 IAC 2-1, and 310 IAC 2-1-6.

**T. Building Codes**

The Department reserves the right to conduct on-site inspections of the facility to ensure proper adherence to applicable building codes. These include, but are not limited to, the Indiana Electrical Code, the Indiana Building Code, and NFPA 303. The Department has the right to cause the Contractor to cease and



desist a portion of or the entire operation of the contract until corrections to the facility have been made to the satisfaction of the Department.

## **10. CONCESSION OPERATION**

### **A. Standard of Performance**

The Contractor shall give the business daily personal supervision and shall either be present at the concession at all times that it is open for business or shall be represented by a responsible adult person. The Contractor shall establish, maintain, and operate the concession in such manner as to provide the prescribed services to the public according to the best standards prevailing for a similar business.

Standards and rules for sanitation and safety, include, but are not limited to those established by the Indiana State Board of Animal Health, the Department of Health, the Department of Agriculture, and the State Fire Marshal.

### **B. Rates, Prices, Charges**

Ten (10) days before opening the concession, the Contractor shall submit to the Assistant Director of Inns and Concession for approval, a listing of the prices, rates, and charges proposed for use in the operation of this concession. If practicable, such prices shall be no higher than prices charged for similar merchandise in the locality in which the Contract is operated. In any event, such prices shall be within the guidelines established by the Natural Resources Commission. The Contractor shall maintain on public display a neat and legible sign showing the approved prices, rates, and charges for the sale of goods.

### **C. Alcohol**

At no time shall the Contractor or employee sell, display, store, or consume alcohol on the License area. Failure to comply with this provision may result in immediate termination of the Contract.

### **D. Supervision by Property Manager**

The Department is responsible for the general management of the area on which this concession is located. The day-to-day operation of the Contract, with respect to the quality of service rendered, hours the concession is open, sanitation, exterior building maintenance and other operational matters as the Department may designate shall be determined by the property manager.

### **E. Parking**

The Contractor and all employees of the Contractor shall park in areas designated by the property manager. The designated parking area may be changed by the Department to facilitate construction or to protect the public or the property. The Department is not responsible for damage or theft to vehicles of the Contractor or the Contractor's employees.

## **11. STANDARD OPERATING PROCEDURES**

The Contractor shall operate this location in accordance with the Standard Operating Procedures (SOPs) for the Concession outlined herein and/or attached below.

## **12. MERCHANDISE**

- A. Quality of Merchandise.** The Contractor shall exhibit good taste in offering items for sale, which will reflect positively on the State. Efforts shall also be made to provide items, which reflect natural, cultural, and historical aspects of the State of Indiana. The State reserves the right to remove any items during site visitations, which the State deems do not reflect a positive image on the State.
- B. Pricing of Merchandise.** A minimum of ten (10) days before opening the Concession, the Contractor shall submit to Property Management for approval, a listing of the prices, rates, and charges proposed for use in the operation of the Concession. Such prices shall be within the guidelines established by the Natural Resources Commission. The Contractor shall maintain on public display, a neat and legible sign showing the approved prices, rates, and charges for the sale of goods. If practicable, such prices shall be no higher than prices charged for similar merchandise in the locality in which the concession is operated so as not to preclude use by members of the general public.
- C. Prohibited Merchandise.** The Contractor agrees by the acceptance of this Contract not to offer for sale prohibited merchandise. Prohibited items include, but are not limited to, those listed below. The State may add items to the list upon written notification to the Contractor.
- No ice picks, hatchets, axes, machetes, or darts
  - No fireworks, exploding items or noise makers of any kind
  - No firearms or ammunition, no BB or CO2 powered devices, sling shots, bows and arrows or trapping devices
  - No alcoholic beverages, "mock tails", or controlled substances.
  - No yard darts
  - No suggestive plaques with off-color sayings, or other such items.
  - No item which can be used to inflict injury on another person or break or deface State properties
  - No items such as "Fanny Whackers" or "Whoopee Cushions"
  - No items such as animal pelts or skins, claws, feathers, or skeletons
  - No Styrofoam products shall be used or sold by the Concession
  - No environmentally unfriendly paper products shall be used or sold by the Concession. All paper products possible, such as toilet tissue, paper towels, etc., shall be made of recycled materials.
  - No improper use, disposal, or sale of environmentally unsafe chemicals shall occur. Much care will need to be used to read labels for proper use and disposal.

## **13. ADVERTISING**

The Contractor is encouraged to conduct a balanced advertising effort directed at developing more business under the provisions of the Contract.

- A. Advertising Plan.** All contracts, scripts, texts, and layouts must be submitted to the State for written approval at least sixty (60) days prior to execution or implementation, or no later than March 1<sup>st</sup> of each concession year. The Contractor agrees not to advertise in any manner or form, on or about the Concession Area, premises, buildings, or elsewhere, or in any newspaper or otherwise, except by means of signs or forms of advertising approved by the State. The Contractor shall not employ or use any person known as "hawkers", "spielers", "criers", or other noisemakers or means of attracting attention to the Contractor's business.
- B. Website Advertising.** The Contractor shall update its website with information regarding upcoming Concession events at least thirty (30) days prior to the event.

#### **14. CONCESSION EMPLOYMENT**

The Contractor shall employ such persons as may be proper to operate the business in accordance with state and federal labor laws. The Contractor is not an employee of the State of Indiana. This Contract does not vest in the Contractor, or anyone employed by the Contractor, any title, tenure, or any property belonging to the State located on or around the Concession Area.

- A. Employee Training.** To promote the facilities of the Department of Natural Resources and to provide quality service to the public, employees of the Contractor must receive thorough training. Concession operators and their employees must attend seasonal training programs on those properties, which have them. Training programs shall acquaint personnel with information about the property and information to disseminate to the general public.
- B. Employment Records.** Personnel records shall be located at the Concession or at another location as approved by the State. Records shall be open to State inspection at any time during the term of this Contract and for a period of one (1) year after the termination date of this Contract.
- C. Moral Conduct.** The Contractor shall prohibit any behavior that violates any federal, state, or local laws, regulations, and ordinances or that fails to conform to a reasonable standard of good conduct. As this Concession is located on property owned or managed by the State of Indiana, and because there is a high recognition and correlation between the services provided and the State, the State has a supreme interest in the quality of service provided and the appropriateness of behavior by Concession employees occurring on and off the premises. As such, the Contractor shall operate the Concession in a business-like manner, maintaining a high standard of conduct by the Contractor and its employees, volunteers, and agents. Furthermore, any act of misconduct by the Contractor or its employees, volunteers, or agents, are prohibited, including but not limited to dishonesty, theft, misappropriation or abuse of State property, moral turpitude, or any act that neglects, injures, abuses, or endangers others, or any act that is prejudicial to or reflects adversely upon the State.
- D. Employee Appearance.** Employees of the Contractor coming in contact with the public shall be neat and clean. Employees shall be identifiable by the public. The State shall approve uniforms.
- E. Background Checks.** The Contractor shall be responsible for conducting background checks of personnel employed in Contractor's operation. The Contractor shall not use or employ persons in Contractor's operation who have a history of anti-social behavior regardless of where such person's anti-social behavior may have occurred.
- F. Corrective Action.** Failure by the Contractor to take action to either correct or stop such behavior or misconduct may be considered a material breach of this Contract; and may be grounds for immediate termination in addition to other remedies available to the State. The Contractor shall immediately report any allegation or act of misconduct to the State. In the event of an allegation of misconduct against either the Contractor or its employees, volunteers, or agents, the person or persons who are the subject of the allegation shall be removed immediately from the Concession Area and IDNR property pending resolution of the matter. The Contractor shall cooperate with the State in implementing resolutions to the matter.

#### **15. VIOLATIONS**

This Contract has been established to provide services and/or goods to the general public and citizens of Indiana. Any failure to comply with all provisions of this Contract delays the administration of the Contract and risks losing the provided goods or services, depriving the State of revenue, and diminishing the State's good customer service reputation.

- A. Notice of Violation.** The Contractor will be provided with a "Notice of Violation" stating which provision has been violated and a date by which the stated violation must be corrected. If the violation has not been corrected by the date specified, the Contractor agrees to pay the State liquidated damages in the sum of \$50.00.
- B. Damages.** If the violation has still not been corrected after a period of seven (7) days after the specified date, the Contractor agrees to pay an additional \$100.00 in liquidated damages. An additional \$100.00 fine shall be imposed for each additional 7-day period of time until the violation has been corrected. The State reserves the right to waive damages.
- C. Failure to Correct Violations.** Continued failure to correct violations and comply with the provisions of this Contract may result in immediate termination of the Contract as described herein. Immediate termination of this Contract may occur due to situations that include, but are not limited to, discourteousness to the public, insurance cancellation, surety bond cancellation, alcohol abuse, and other circumstances which could cause harm to the public or the State or reflect adversely on the State. All decisions of the State are final.

## **16. TERMINATION**

- A. Departure from Premises.** If this Contract is terminated before completion of the term of the Contract, then the Contractor shall vacate the Concession Area within seven (7) days of termination unless a lesser period of time is provided by court order. Contractor and/or his agents shall remove no personal property on which the State is given a lien from the Concession Area unless otherwise directed by court order, until all fees outlined in this Contract and other sums owed to the State have been paid.
- B. Acts of God.** If an Act of God renders this Contract inoperable for more than sixty (60) days, this Contract shall automatically terminate as of the date of that Act. The State shall receive its fees outlined in this Contract on all income to the date of termination, or to the date of sixty (60) days after termination, whichever income is greater, as if the term of the Contract were then completed.
- C. Termination Due to Violations.** If the Contractor fails to make timely cure of repeated violations, the Director may terminate this Contract upon written notice of such termination by certified mail, or this notification may be delivered in person. The State shall receive fees outlined in this Contract on all income to the date of termination as if the term of the Contract were then completed. The Contractor shall further pay to the State, as liquidated damages for breach of performance and for future performance, the sum of \$1,000.00. This sum, plus any fees outlined in this Contract shall be paid to the State within fifteen (15) days of such termination.
- D. Early Termination by Contractor.** If the Contractor terminates this Contract, the provisions relating to disbursement of income and to liquidated damages described herein shall apply. If, however, the Contractor gives written notice, by certified mail, to the State at least thirty (30) days prior to the date of termination, the amount of liquidated damages shall be \$500.00. This fee, and all fees outlined in this Contract, shall be paid at the time of termination.
- E. Contractor Incapacitation.** If the Contractor dies or becomes incapacitated, this Contract may be deemed terminated by the State and the provisions relating to the disbursement of income described herein shall apply, or, at its discretion, the State may authorize the estate, guardian, or conservator of the Contractor to operate the facilities under the terms of this Contract until completion of the term of the Agreement.
- F. Potential Harm to the State.** The State may, in cases where continued operation by the Contractor may result in significant or irreparable harm to the State and/or the public, terminate this Contract immediately. Examples include, but are not limited to, non- payment

of fees, discourteousness to the public, insurance cancellation, bond cancellation, alcohol abuse, and other circumstances which could cause harm to the public or the State or reflect adversely on the State. All fees payable to the State shall be paid within fifteen (15) days of such termination along with a liquidated damage sum of \$1,000.00 for breach of performance.

- G. Court Costs.** If the State finds it necessary to pursue legal action to recover monies owed by Contractor, Contractor shall also pay all court costs, attorney's fees, and other costs incurred as a result thereof.

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**Following is an EXAMPLE ONLY Exhibit A to a Concession Agreement.** All details contained herein represent sample verbiage only and should not be construed as the terms and conditions of an eventual contract resulting from this business announcement. All dollar amounts, percentages, and hours of operation may be considered negotiable, are subject to change, and can vary by contract. This sample does not include the State of Indiana boilerplate language that will be included in the final contract.

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