

THE CITY OF SAN DIEGO

REQUEST FOR PROPOSALS



CITY RESERVOIR CONCESSIONS

**THE CITY OF SAN DIEGO PUBLIC UTILITIES DEPARTMENT'S
REQUEST FOR PROPOSALS
FOR THE OPERATION OF
RESERVOIR CONCESSION FACILITIES**

By way of this Request for Proposals [RFP], the City of San Diego [City] invites proposals for the operation of one or more of the City Reservoir Concessions.

The City reserves the right to reject any or all proposals. The submission of any information, and/or participation in the selection process, is not an implied or expressed agreement to accept any future proposal by any proposers. No agreement can be created (or implied) with the City of San Diego until an express agreement is approved by the Mayor and/or City Council. All proposers must sign "EXHIBIT 4" acknowledging that the City shall not be held responsible or liable for any costs the proposers incur during the submittal process or the time period leading up to and through potential Mayor and/or City Council approval; this includes, but is not limited to any costs incurred in preparing the submissions, any costs incurred during the RFP process, any costs incurred during any future permit negotiation period, or any costs incurred during any approval period.

A. PROPERTY DESCRIPTION

The City's Real Estate Assets Department, in cooperation with the City's Public Utilities Department, manages the following reservoirs:

1. El Capitan;
2. Hodges;
3. Murray;
4. Miramar;
5. Sutherland; and
6. Lower Otay.

See Site Maps of each reservoir attached as "EXHIBIT 1." The concession operations at the reservoirs have been closed since 2006.

B. TYPE OF PROPOSALS SOUGHT

The City is seeking proposals to operate the concession facilities, and other related activities, at one or more of the above-referenced City reservoirs. **Proposers are encouraged to propose other uses, services, activities, and/or facilities that would improve services and benefits to the public, which are consistent with the City's need to preserve and protect its water resources, and which would result in additional income to the proposer and the City.** It would be to each proposer's advantage to inspect the facilities with a representative of the City's Public Utilities Department in order to understand the extent of the previous concession service operation.

Concessionaire Operating Plans for the reservoir(s) must be included with any response to this RFP.

Each proposal should reflect the City's desire to have a concession permit/agreement in which the successful proposer serves the public, maintains the facilities, and manages and operates concessions and related activities in a fiscally responsible manner that produces the highest gross income to the City that can be reasonably expected. Proposers are encouraged to submit proposals to operate concessions for one or more of the individual reservoirs. However, proposals to operate concessions at multiple reservoirs must be submitted as individual stand alone proposals for each City reservoir selected.

Each proposer, in preparing his/her proposal(s), should consider all available industry guidelines as they apply to liability, public health standards, recreational operations, Americans with Disabilities Act (ADA) access, and the highest standards of maintenance of all facilities and equipment.

Each proposer must include Operating Plans for the stated City-requested services, **and is encouraged to bring new ideas for services and or facilities that could benefit the City, the public and the successful proposer.**

C. DESCRIPTION OF OPERATIONS

It is anticipated that, at a minimum, the selected proposer(s) would operate snack bars, sell fishing tackle, bait, State fishing licenses, license stamps, daily recreational use permits, rent motorboats, rowboats, kayaks, paddleboats, etc. As a public service, the selected proposer(s) would provide information and handles reservations relative to the recreational use of the individual City reservoirs.

In addition to concession operations, the selected proposer(s) will be required to maintain accurate inventory records of permit sales and submit an inventory report of permits sold

and unsold on a regular schedule. For providing this service, the City will pay a percentage fee for the sale of the permits. City staff may also be involved with the selling of permits; the coordination of these activities will be between City staff and the successful proposer(s).

Occasionally, and for various reasons, the Public Utilities Department has found it necessary to close a City reservoir because of storms, low water levels, scheduled and unscheduled maintenance, improvements, and for other reasons that may arise during the term of any Concession Permit which may be entered into between the City and a successful proposer(s). In most cases, advanced notice of such closure was provided to the concessionaire. However, the City cannot guarantee that any individual reservoir will be open for fishing or other activities at all times. If any such closure should become necessary, the City would reduce any rent agreed upon in proportion to the length of any closure.

A complete description of operations agreed upon with the selected proposer(s) will be made a part of the final approved Concession Permit. The "Form Of" a Concession Permit is attached hereto as "EXHIBIT 2" (also see Section "L" below).

A majority of the existing trade fixtures, equipment and boat motors are the property of the City. The selected proposer(s) must be prepared to provide any additional necessary trade fixtures, equipment and/or new outboard motors of equal or better brand as presently in place on the premises approved by the City and as required for their specific operation. Larger watercraft and outboard motors could be appropriate for El Capitan, Hodges, Lower Otay, and Sutherland reservoirs as the speed limit is 35 MPH. Title to any fixtures, equipment, motors, boats, etc., provided by a successful proposer(s) will remain vested in the selected proposer(s).

Rental History: The figures listed below, from 1999-2002, reflect the percentage rent paid to the City for the last four years of a concessionaire hired by the City. Commencing 2003-2006 the concessions were operated by the City Park and Recreation Department, and from 2007 to present the concession operations were closed.

	<u>San Vicente</u>	<u>El Capitan</u>	<u>Hodges</u>	<u>Murray</u>	<u>Miramar</u>	<u>Sutherland</u>	<u>Barrett</u>	<u>L. Otay</u>
<u>FY1999</u>	\$4,412	\$1,424	\$10,752	\$3,254	\$4,636	3,408	\$1,376	\$4,256
<u>FY2000</u>	\$6,512	\$3,762	\$12,722	\$3,679	\$6,504	3,007	\$1,297	\$8,372
<u>FY2001</u>	\$6,649	\$3,014	\$8,803	\$4,921	\$7,429	3,156	\$1,666	\$5,953
<u>FY2002</u>	\$7,834	\$3,158	\$6,894	\$6,056	\$7,923	\$2,288	\$2,413	\$7,121
<u>% Pd on Gross</u>	7%	7%	5%-12%	7%	7%	7%	7%	7%

(All years shown are on a fiscal year basis from July 1 through June 30. Rental figures are provided for informational purposes only and should not be construed as a guarantee of potential income.)

D. RESPONSIBILITY OF PROPOSERS

1. Each proposer will be responsible for making all investigations and examinations necessary for developing and operating the premises. Failure to do so will not waive any condition of the concession agreement. **By submitting a proposal the proposer acknowledges that they have made such investigations and examinations.**

2. Proposers may withdraw their proposals at any time prior to the submission deadline upon written notice to: Dave Martens, Property Agent, Real Estate Assets Department, 1200 Third Ave, Ste 1700, San Diego, CA 92110.

3. Tentative Proposal(s) Timeline:

Opening Date – Issuance of RFP	August 16, 2010
Optional Pre-Proposal Meeting	August 31, 2010
Closing Date for Receipt of Proposals	December 6, 2010
Selection of Proposer(s)	Jan/Feb 2010
Prepare and Execute Permit(s)	Feb/Mar 2010
City Council Approval (if applicable)	Mar/April 2011

Note: This timeline does not consider unforeseen factors that could impact the timing of this RFP. It is the intent of the City to keep proposers informed of changes in the timeline as they occur.

ALL ENVIRONMENTAL CLEARANCES REQUIRED FOR THE PROPOSED USES WILL BE THE SOLE RESPONSIBILITY OF THE PROPOSER. Each proposer is encouraged to discuss the proposed operational plans, changes or additions to the existing facilities, after review by the Public Utilities and Real Estate Assets Departments, with the Early Assistance Section of the Development Services Department. The approved plans, operation schedule, along with necessary environmental clearances, if required, will become a part of the concession agreement and will control the operations of the concessionaire on the premises.

E. PROPOSAL CONTENTS

All proposals must include, as a minimum, the information specified below. Failure to include this information will seriously detract from a proposal and may be cause for its rejection. The inclusion of any additional information that will assist in the evaluation is encouraged. The adequacy, depth and clarity of the proposal will influence, to a considerable degree, its evaluation. The proposal submitted must be complete enough for selection to be made based solely on its contents. Proposers are advised to make their best offer in their proposal(s) as there will be no auction or competitive negotiation of this RFP. Each proposal must include a proposed facilities concept plan, any proposed changes or additions to the existing facilities, and income and expense projections.

Each proposer MUST include the following:

1. Identification. The complete identity, including social security number, address, daytime phone number, and employment of the proposer; or the name of the organization, the organization's Federal Tax ID number and the names and addresses of the principals who will be responsible for the operation of the business and their position in the firm. If the business is a privately held corporation, a listing of all stockholders, their interest in the company as related to percentage of ownership, and their interest, if any, in the operations of the entity must be included.
2. Experience. A summary of the proposer's experience and qualifications for this type of enterprise. If the proposer is not going to be involved in the day-to-day operation of the facility, then the proposer must include verification that the persons employed as managers are well qualified.
3. Financial Statements. Current financial statements, audited or CPA prepared, or tax returns for the preceding year is required. Each proposer shall submit a full and detailed statement of their true financial condition as of January 1, 2010, or as recent as possible if that date is not available. The statement shall include the proposer's assets, liabilities and net worth, including the availability of and operation capital and its source. If the proposer plans to use borrowed capital, then the amount of borrowed capital proposed for the improvements and operation and its source and terms of repayment must be included in the financial statement.
4. Proposed Improvements. A preliminary plot plan showing the general location of all existing and any proposed improvements on the reservoir premises, as well as compatibility of any proposed improvements to the entire lake(s) setting, and the intended uses for the site, must be submitted with each proposal. All uses, improvements, and rental equipment are subject approval by the City. All

proposers are urged to discuss their individual plans with the City's Public Utilities Department.

5. Proposed Concessionaire Operating Plans. Proposed Operating Plans must be submitted for each reservoir for which the proposer(s) submits proposals.
6. Income Expense to Statement. Income and expense projections based on one, five and ten year projected operating statements.
7. Financial Plan. The successful proposer(s) will be required to submit complete operational and financial plans. The financial plan should include the proposed amount of financing, term, cash flow, etc.
8. Proposed Term. The proposed term for any resulting concession agreement and the justification therefore in terms of the amount of investment.
9. Rental Offer. The proposer(s) will be required to offer a base rent as a guaranteed minimum annual rent versus a percentage rent. The City will consider a percentage rate income rental depending on the proposed uses.

F. WARRANTY

All proposers must warrant that the proposal(s) submitted are not made in the interest of or on behalf of any undisclosed party; that the proposer has not, directly or indirectly, induced any other proposer to submit a false proposal; or that proposer has not paid or agreed to pay to any party, either directly or indirectly, any money or other valuable consideration for assistance or aid rendered or to be rendered in attempting to procure the agreement(s) for the privileges offered herein.

G. SUBMITTAL REQUIREMENTS

1. Submittals. Each submittal must include, and only include, the following:

One (1) unbound original (suitable for reproduction, clearly marked "ORIGINAL" and two (2) bound copies (clearly marked "COPY) along with a signed copy of Exhibit 4.

Submittals for each reservoir shall be sealed in individual envelopes and labeled:

"SEALED PROPOSAL: City Reservoirs"

2. Submittal Deadline. Delivery of the proposal(s) to the stated location, and marked to the attention of the stated City employee, prior to the stated deadline, is solely and strictly the responsibility of the proposer.

The delivery deadline is **December 6, 2010, at 4:00 p.m. local time. The City will in no way be responsible for delays caused by the United States Postal Service or other delivery service, or for delays caused by any other occurrence.**

Hand or Mail Delivery

**Location: City of San Diego
Real Estates Assets Department
Attn: D. Martens, Property Agent
1200 Third Ave., Suite 1700
San Diego, CA 92101**

All materials submitted by proposers become the property of the City of San Diego and may not be returned, with the exception of the financial information. Financial documents, upon request, will be removed from each proposal and returned to the proposer upon completion of City's review.

Proposals delivered in person will be given a time/date receipt by City Staff.

Proposals received after the designated date and time will not be considered.

3. Opening

There will be no formal proposal opening for this RFP. Proposals will be opened and evaluated after the published Proposal Deadline, at the City of San Diego's Real Estate Assets Department.

4. Faithful Performance Deposits

All proposers **MUST** include a cashier's check or certified check in the amount of Two Thousand Five Hundred Dollars (\$2,500) payable to City Treasurer as a faithful performance deposit to assure that, if a proposer's proposal is selected by the City, that the proposer will in good faith enter into a Concession Permit(s) containing substantially the same terms and conditions as set forth in this Request for Proposals, or upon approved modified terms. The faithful performance deposit (\$2,500) is the same amount for each proposer regardless of the number of reservoir concessions proposals submitted. No personal checks will be accepted and no interest will be paid on deposits. All unsuccessful proposers' deposits will

be refunded within thirty (30) days after the acceptance by the City Council of the successful proposer's proposal.

5. Contact Person and site visits

The proposal coordinator and project manager is Dave Martens, Property Agent. He can be reached at (619) 236-6066, (619) 236-6706 (FAX), between 6:30 a.m. to 4:30 p.m., Monday through Thursday, or email dmartens@sandiego.gov.

Appointments to visit the reservoir site(s) must be made with Mr. Joe Weber, Program Lakes Manager. He can be reached at (619) 668-2030, (619) 443-7681 (FAX), between 6:00 a.m. to 2:30 p.m. Monday through Friday, or email jweber@sandiego.gov.

G. PRE-PROPOSAL CONFERENCE

To give prospective proposers an opportunity to view the individual reservoir site(s) and ask questions about the proposal submittal, the individual facilities, current equipment located at individual reservoirs, and related matters, a pre-proposal conference will be scheduled.

Prospective proposers will find it beneficial to attend the pre-proposal conference, although attendance is not a prerequisite to submitting a proposal. While proposers should feel free to call the Project Manager during business hours if questions arise, the pre-proposal conference is a good forum for discussing questions, problems, and topics related to this RFP. The City will not summarize or transmit information on conference discussion items to prospective proposers who fail to attend the meeting.

Date of Pre-Proposal Meeting: August 31, 2010

Time: 9:00 a.m.

Place: City of San Diego, Real Estate Assets Department
1200 Third Avenue, Suite 1700
San Diego, CA 92101

Contact: Please call Mr. Dave Martens, Project Manager at (619) 236-6066 or email dmartens@sandiego.gov if you are planning to attend.

H. PROPOSAL EVALUATION AND SELECTION

All of the following criteria must be addressed in the proposal(s) for comparative evaluation; however, the order of listing does not imply their relative importance:

1. Operational Proposal(s): The quality, attractiveness and feasibility of the proposed Operating Plans is a significant factor in selection.
2. Experience: The past business experience of the proposer will be considered in proposal evaluation.
3. Term/Rental Offer: The length of the term and amount of rent offered the City is an important factor in selection.
4. Financial Capability: The proposer must exhibit the necessary financial responsibility and strength to successfully carry out the development.
5. Special Public Benefits: Any special public benefits will be considered.

I. ADDITIONAL INFORMATION FROM PROPOSERS

The City reserves the right to request information from proposers beyond that specified in this RFP. Proposers may be requested to appear before an evaluation committee, but will not be obligated to do so. However, the City may make a selection based on the information contained in the proposal(s) above. Therefore, proposers are advised to submit thorough, complete proposal(s).

J. REQUESTS FOR INTERPRETATIONS OR CLARIFICATIONS

No interpretations or clarifications of this RFP will be made to any proposer orally. If discrepancies or omissions are found by any prospective proposer, or there is doubt as to the true meaning of any part of the RFP, a written request for clarification or interpretations must be submitted in writing, addressed to:

Dave Martens, Property Agent
City of San Diego, Real Estate Assets Department
1200 Third Avenue, Suite 1700
San Diego, CA 92101

K. NONCONFORMING PROPOSALS

It is the responsibility of each proposer to carefully examine this RFP and to judge for itself all of the circumstances and conditions which may affect its proposal and subsequent operations and management of the proposed use of each reservoir. Any data furnished by the City is for informational purposes only and is not warranted. Proposer's use of such information shall be at the proposer's own risk. Failure on the part of any proposer to examine, inspect, and to be completely knowledgeable of operational conditions of each reservoir for which a proposal is submitted, the terms and conditions of the proposed concession agreement or of any other relevant documents or information, shall not relieve the selected proposer from fully complying with this RFP. Proposal(s) submitted early by proposers may be withdrawn or modified prior to the Proposal Deadline. Such requests must be in writing. Modifications received after the Proposal Deadline will not be considered.

The City is not obligated to accept any proposal, whether conforming or nonconforming.

L. "FORM OF" CONCESSION AGREEMENT

The City anticipates entering into Concession Permits(s) based substantially on the terms and conditions outlined in the "Form of" Concession Permit attached to this RFP as EXHIBIT 2. However, the City reserves the right to negotiate modifications to the "Form Of" agreement with the selected proposer(s) to the extent deemed necessary and beneficial to City.

The City will consider proposals offering alternate terms. And, proposers are encouraged to offer terms more favorable to the City than those specified herein. Proposers should bear in mind the competitive nature of the proposal process and the fact that the City will be looking for the proposal(s) which offer the best advantage to the City. Proposers desiring or requiring special conditions or deviations from the "Form Of" Concession Permit provisions should state the exact changes and specify the alternate language in their proposal(s). Proposers requiring reduced rent during construction, rent credits, or other deviations from the provisions of this RFP and "Form Of" Concession Permit should specifically address the requested changes in their proposal(s). Other factors being equal, the City will discount a proposal(s) which requests changes that are disadvantageous to City.

Long-term permits may be subject to final approval by the City Council.

M. REVIEW OF PROPOSALS BY THE GENERAL PUBLIC

All proposals received shall be considered confidential until the successful proposer(s) are selected, at which time the proposals shall become public information and available to the public for review. However, the financial statement portions of each proposal shall,

in accordance with applicable law, be considered confidential and, therefore, not available for public review.

N. CITY RIGHT TO REJECT ALL PROPOSALS

The City of San Diego reserves the right to reject all proposals resulting from this RFP, including all proposals submitted by proposers who have any outstanding debt with the City, without cause or liability.

O. QUALIFICATION OF PROPOSAL

THIS IS NOT A BID SOLICITATION AND THE CITY IS NOT OBLIGATED TO ACCEPT ANY PROPOSAL(S) OR TO NEGOTIATE WITH ANY PROPOSER(S).

P. NON-DISCRIMINATION NOTICE

It is the policy of the City not to discriminate against the disabled in employment or provision of services. The information contained in this Request for Proposals will be made available in alternative formats to disabled persons upon request.

Q. RETURN OF FAITHFUL PERFORMANCE DEPOSIT

All good faith deposits will be returned to unsuccessful proposers within 30 days of final approval of the selected proposer(s). For the selected proposer(s), the deposits will be applied to the concession agreement(s) deposit upon completion of concession agreement negotiations and execution of the concession agreement by the proposer(s). Should the selected proposer(s) unilaterally withdraw from concession agreement negotiations, the deposits will be forfeited to the City.

R. REAL ESTATE BROKER'S COMMISSION

The City of San Diego will not pay a brokers commission in this RFP.

S. CONFLICTS OF INTEREST

Please note that State and local law makes it illegal for public officials or their employees to participate in the making of a contract in which he or she is financially interested. The law governing conflicts of interest defines the "making of a contract" to include responding to a Request for Proposals. The law further defines a public official very

broadly to include member of advisory boards that are not actual parties to the contract. Any attempt to contact or communicate with an elected City official regarding this RFP, or a submission in response to this RFP, is grounds for disqualification. Prospective respondents who are aware of circumstances that could create a conflict of interest if a proposal were submitted are urged to contact staff immediately.

T. SCHEDULE OF ATTACHMENTS

EXHIBIT 1 – Site Maps of Reservoir Properties

EXHIBIT 2 – “Form Of” Concession Permit

EXHIBIT 3 – Workforce Analysis Report

EXHIBIT 4 – Acknowledgement by Proposers

DCM/cb

8-5-10

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EXHIBIT 1

Site Maps of Reservoir Properties

EXHIBIT 2

“Form Of” Concession Permit

EXHIBIT 3

Workforce Analysis Report

EXHIBIT 4

Acknowledgement by Proposers

The undersigned wish to respond to the request for qualifications issued by the City of San Diego and hereby acknowledge that:

1. The City reserves the right to reject any or all submissions, at any time, at its sole discretion.
2. The act of submitting a responsive proposal(s) does not obligate the City in any way to approve, in whole or in part, including, without limitation, as in the case of a sale of city property, matters pertaining to land use entitlements or approvals, permits, waivers or reductions of fees, development or financing of the site or any other matter to be acted on by the City, as applicable; that all such matters shall be considered and processed by the City in accordance with all otherwise applicable City requirements and procedures and that the City reserves all its rights to approve, disapprove, or approve with conditions all such matters in its sole discretion.
3. None of the matters described in any future draft permits, if any, or discussed during any future negotiations as a purported commitment or obligation of the City shall have any effect unless, and only to the extent, such matters are expressly set forth in a permit or other written agreement duly authorized and approved by the Mayor and/or City Council and approved by the City Attorney.
4. It is further specifically acknowledged, that the City shall not be responsible or held liable for any costs incurred by the undersigned (or other related party, agent, consultant, employee, etc.), and/or his/her business organization, in relation to the undersigned's submissions to the City, regardless of the type of, or amount of, costs incurred. And, that the undersigned has the authority to sign this Acknowledgment on behalf of his/her business organization.

Name & Title
On behalf of: _____
Business Name

Date

Name & Title
On behalf of: _____
Business Name

Date