

U.S. Fish and Wildlife Service  
U.S. Department of the Interior



# Prospectus

A Concession Business Opportunity for Guided  
Sleigh and Wagon Ride Interpretive Tours within the  
National Elk Refuge

Solicitation # CC-NER-01



# PROSPECTUS

## Guided Sleigh and Wagon Ride Interpretive Tours within the National Elk Refuge

United States Fish and Wildlife Service  
Department of the Interior

Solicitation # CC-NER-01

---

---

PROSPECTUS ISSUED: April 15, 2024

QUESTIONS DUE: May 10, 2024

ELECTRONIC PROPOSALS DUE: June 7, 2024

HARDCOPY of OFFEROR'S TRANSMITTAL LETTER DUE:

Questions and proposals must be **received** by the Fish & Wildlife Service  
no later than 4:00 P.M. Mountain Time on the due dates listed above.

---

---

Read more about submitting questions, notice of intent, and a proposal in *Proposal Instructions*.

**Send questions via email to** [Raena\\_ParsonsS@fws.gov](mailto:Raena_ParsonsS@fws.gov)

**Submission of an electronic proposal:** [Raena\\_Parsons@fws.gov](mailto:Raena_Parsons@fws.gov)

**Submission of hardcopy of the Offeror's Transmittal Letter with wet signature**

Send via US Postal Service, FedEx, or UPS, etc. to:

Raena Parsons  
CONCESSION PROPOSAL, MAILROOM DO NOT OPEN  
675 East Broadway, PO Box 510  
Jackson, WY 83001

# Prospectus

## Guided Sleigh and Wagon Ride Interpretive Tours

### National Elk Refuge

U.S. Fish and Wildlife Service

U.S. Department of the Interior

**Contract No. CC-NER-01**

---

PROSPECTUS ISSUED:

QUESTIONS DUE:

PROPOSAL DUE:

Questions and proposals must be **received** by the U.S. Fish and Wildlife Service no later than 4:0 P.M. Mountain Time of the due dates listed above. Ship proposals to:

Raena Parsons  
Visitor Services Manager  
National Elk Refuge  
675 East Broadway  
PO Box 510  
Jackson, Wyoming 83001  
307-201-5433

---

Send Questions via email to:

Raena Parsons  
Visitor Services Manager  
[reana\\_parsons@fws.gov](mailto:reana_parsons@fws.gov)

# Prospectus Table of Contents

I.	.....	Pre-Solicitation
II.	.....	Proposal Instructions
III.	.....	Proposal Package
IV.	.....	Draft Concession Contract Including Contract Exhibits
V.	.....	EXHIBIT Table of Contents
		A. Operating Plan
		B. Nondiscrimination
		C. Assigned Land
		D. Government Property
		E. Maintenance Plan
		F. Insurance
		G. Transition
		H. National Wildlife Refuge Visitor Survey 2019 Results for National Elk Refuge

## **Pre-Solicitation**

Guided Sleigh and Wagon Ride Interpretive  
Tours

within the  
National Elk Refuge

U.S. Fish and Wildlife Service  
U.S. Department of the Interior

**Contract No. CC-NER-01**

## Summary of the Concession Opportunity

The National Elk Refuge has a Business Opportunity for Guided Sleigh and Wagon Ride Interpretive Tours within the National Elk Refuge. The Service intends to award one (1) contract under this Prospectus. In the event of any inconsistency between the terms of the Draft Contract and this Summary, the Draft Contract with prevail.

Guided Sleigh and Wagon Ride Interpretive Tours on the National Elk Refuge are designed to provide visitors first-hand exposure to Refuge resources. Under the Draft Contract, the Concessioner is required to provide interpretive horse-drawn sleigh or wagon rides on the National Elk Refuge as well as transportation to and from the Visitor Center to the Sleigh Ride staging area during the winter season. The sleigh ride season is typically the day after the end of the elk hunt (mid-December) through the first week of April.

## Introduction

The U.S. Fish and Wildlife Service (Service) intends to award one (1) concession contract for Guided Sleigh and Wagon Ride Interpretive Tours within the National Elk Refuge. This Prospectus describes in general terms the existing business operations and the future business opportunities required and authorized by the Service. Offerors are responsible for reviewing all sections of this Prospectus and the terms and conditions of the attached Draft Concession Contract (Draft Contract), including its exhibits, to determine the full scope of a future Concessioner's responsibilities under the Draft Contract.

The Service is conducting this solicitation in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee); the Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-3); the Refuge Revenue Sharing Act (16 U.S.C. 715s); Regulations on Concessions – General Provisions (50 CFR Part 25.61) and FWS Policy 630 FW 6 through 8. The term "Concessioner" as used in this Prospectus refers to the entity that will be the Concessioner under the Draft Contract.

In the event of any inconsistency between the description of the terms contained in this Prospectus and the Draft Contract itself, the terms of the Draft Contract will prevail. The U.S. Fish and Wildlife Service presents a unique opportunity for highly qualified operators to provide concession operations on the National Elk Refuge. The Service expects all operators to provide exceptional service to National Elk Refuge visitors.

### The U.S. Fish and Wildlife Service Mission

The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people.

### The National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

## The National Elk Refuge

### Refuge Purpose

- The National Elk Refuge was established in 1912 as a “winter game (elk) reserve” (37 Stat. 293, 16 U.S.C. 673).
- In 1913, the U.S. Congress designated the area “a winter elk refuge” (37 Stat. 847).
- In 1921, all lands included in the refuge or that might be added in the future were reserved and set apart as “refuges and breeding grounds for birds” (Executive Order 3596), which was affirmed in 1922 (Executive Order 3741).
- In 1927, the refuge was expanded to provide “for the grazing of, and as a refuge for, American elk and other big game animals” (44 Stat. 1246, 16 U.S.C. 673a).

### Refuge Vision

Nestled below the majestic Teton Range, adjacent to the historic gateway town of Jackson, Wyoming, the National Elk Refuge provides crucial big game wintering habitat in the Greater Yellowstone Ecosystem. Across the refuge’s grassland, wetland, woodland, and sagebrush shrubland communities, visitors view wintering elk and other wildlife populations that are balanced with their habitats. The public enjoys quality hunting and fishing as well as year-round interpretative opportunities. Effective outreach and strong public and private partnerships ensure understanding and protection of refuge resources for future generations.

### Market Area Overview

#### Wyoming Tourism Market

The most popular tourist destinations in Wyoming are Yellowstone National Park, the Jackson Hole area, and Grand Teton National Park. The National Elk Refuge is 58 miles from Yellowstone National Park, adjacent to the south side of Grand Teton National Park, and adjacent to the north side of Jackson, Wyoming. Wyoming Office of Tourism’s 2021 Economic Impact of Travel Report and 2018 Visitor Profile listed the following travel profile and characteristics. (Source: at [www.wyomingofficeoftourism.gov](http://www.wyomingofficeoftourism.gov))

- The average length of stay for overnight visitors was 2.7 days.
- The average party size for visitors to Wyoming was 2.8.
- 68% of visitors used either their own vehicle or a rental vehicle to travel to Wyoming.
- The overnight visitor to Wyoming is educated, affluent, and trending older.
  - 71% of adult visitors have at least a college degree.
  - The average age of visitors to Wyoming is 52.

#### Local Market Area

The Service believes the operations under the Draft Contract provide a unique opportunity for the Concessioner to operate in a world-famous location. The gateway community, Jackson, WY, lies immediately adjacent to the National Elk Refuge. Jackson offers lodging, food and beverage, souvenirs, and groceries during the winter. In addition, Jackson is close to winter sports opportunities on federal and private lands outside the Refuge, including snowmobiling, Nordic skiing, and alpine skiing. Specific information about services and activities can be found on the city website.

## Weather

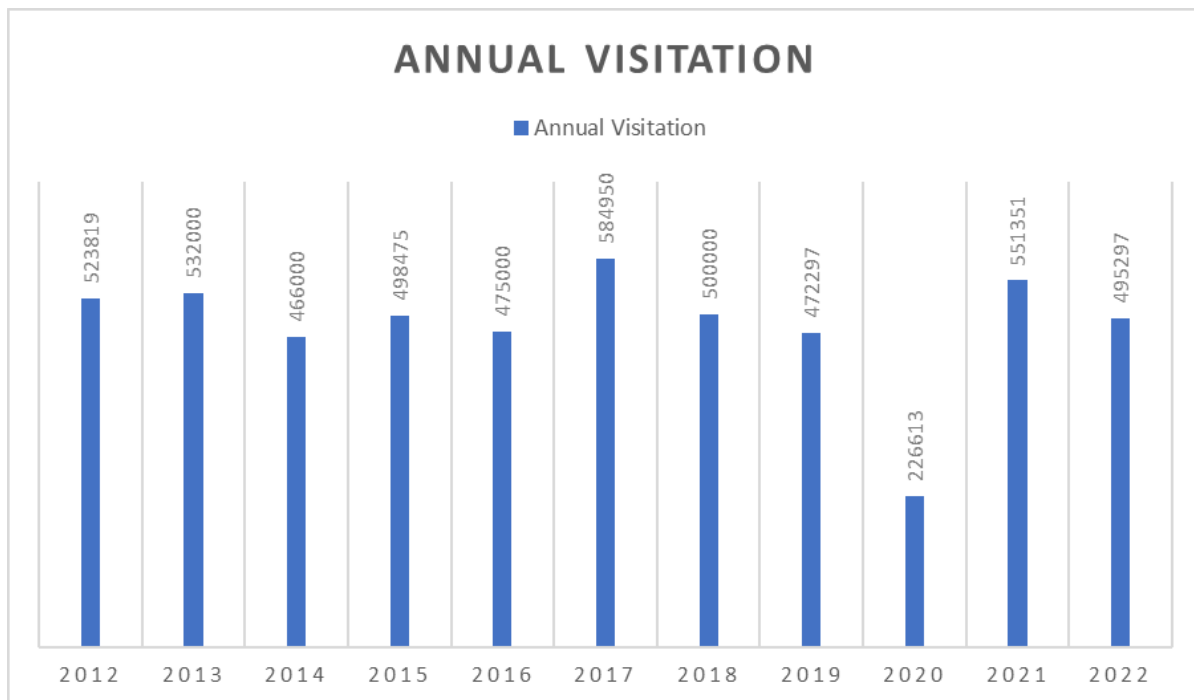
Table 1. Average climatic conditions in Jackson, WY.

Month	Avg. Max. Temp (F)	Avg. Min. Temp (F)	Avg. Precipitation (inches)	Avg. Total Snowfall (inches)
January	27	4	1.5	19
February	32	7	1.14	14
March	40	15	1.23	11
April	52	24	1.14	4
May	63	31	1.8	1
June	72	37	1.63	.1
July	82	41	.94	0
August	80	39	1.2	0
September	71	31	1.27	.2
October	58	24	1.17	1.5
November	40	16	1.3	9
December	29	7	1.52	17
Annual Avg.	54	23	1.32	6.4

Source: mountainweather.com

## Refuge Visitation

Figure 1. Refuge annual visitation from 2012 – 2021.





## Visitor Study

The National Wildlife Refuge Visitor Survey 2019 Results for National Elk Refuge presents the most recent and comprehensive visitor study regarding demographics of National Elk Refuge visitors. The complete National Wildlife Refuge Visitor Survey 2019 Results for National Elk Refuge is included as Exhibit H to this Prospectus.

## Existing Concession Operation

### Existing Required Services

Guided Sleigh and Wagon Ride Interpretive Tours within the National Elk Refuge are currently being provided under a contract that went into effect July, 2017. The existing concessioner's franchise fee is 5% of gross receipts.

### Current Rate Determination for Services

The current concessioner provides fair and reasonable rates that are approved by the Service. Rates for the most recent operational period (winter of 2022/23) were \$35/adult, \$20/child (Age 5-12) and free for children age 4 and under. The Service considers previous market rates and a market analysis when approving rates.

### Recent Revenue from Current Concessioner

The current concessioner has generated the following revenue over the past three seasons of operation. Historical Gross Revenue "Gross Revenue" as shown here includes receipts as reported by the Existing Guided Sleigh and Wagon Ride Interpretive Tours within the National Elk Refuge. The U.S. Fish and Wildlife Service accepts no responsibility for the accuracy of these figures. All concessioners must pay "Percentage Payments" based on "gross receipts," which is gross revenue less certain expenses as defined in Sec. 2 of the Draft Contract.

ANNUAL REVENUE	2019-2020		2020-2021	2021-2022
Interpretive Horse Drawn Sleigh/Wagon Tours	\$781,226		\$1,096,586	\$1,054,167

## Future Concession Operations

### Guided Sleigh and Wagon Ride Interpretive Tours

Guided Sleigh and Wagon Ride Interpretive Tours on the National Elk Refuge are designed to provide visitors first-hand exposure to Refuge resources. Under the Draft Contract, the Concessioner is required to provide interpretive horse-drawn sleigh or wagon rides on the National Elk Refuge as well as transportation to and from the Visitor Center to the Sleigh Ride staging area during the winter season. The sleigh ride season is typically the day after the end of the elk hunt (mid-December) through the first week of April.

All horses, stock transportation vehicles, ticket kiosk, buses, sleighs, wagons, and related tack are Concessioner-owned personal property (movable property and belongings, exclusive of real property). The Concessioner has access to and use of minimal Refuge facilities including: the Sleigh Staging Area and associated building, horse/hay barn and pasture, 2- tack/storage sheds and space in the visitor

center parking lot for a self-contained ticket kiosk. See Figures 1, 2 and 3 for more details. Set up starts in early December or late November and take down typically begins in early April.

The Concessioner should have enough horses to provide continuous sleigh/wagon rides to visitors and provide rest periods for the animals. The current Concessioner has 62 horses (31 teams) that are rotated daily to minimize the stress on the animals, while still providing continuous service.

#### Overview of Required Services

SERVICE	DESCRIPTION AND LOCATION
Guided Sleigh and Wagon Ride Interpretive Tours within the National Elk Refuge	Provide Guided Sleigh or Wagon Ride Interpretive Tours mid-December through early April. Tours depart from and return to the National Elk Refuge Visitor Center.

No other services, including selling merchandise, are authorized under this contract.

Location of Concession Facilities

Figure 1. General area of operations.

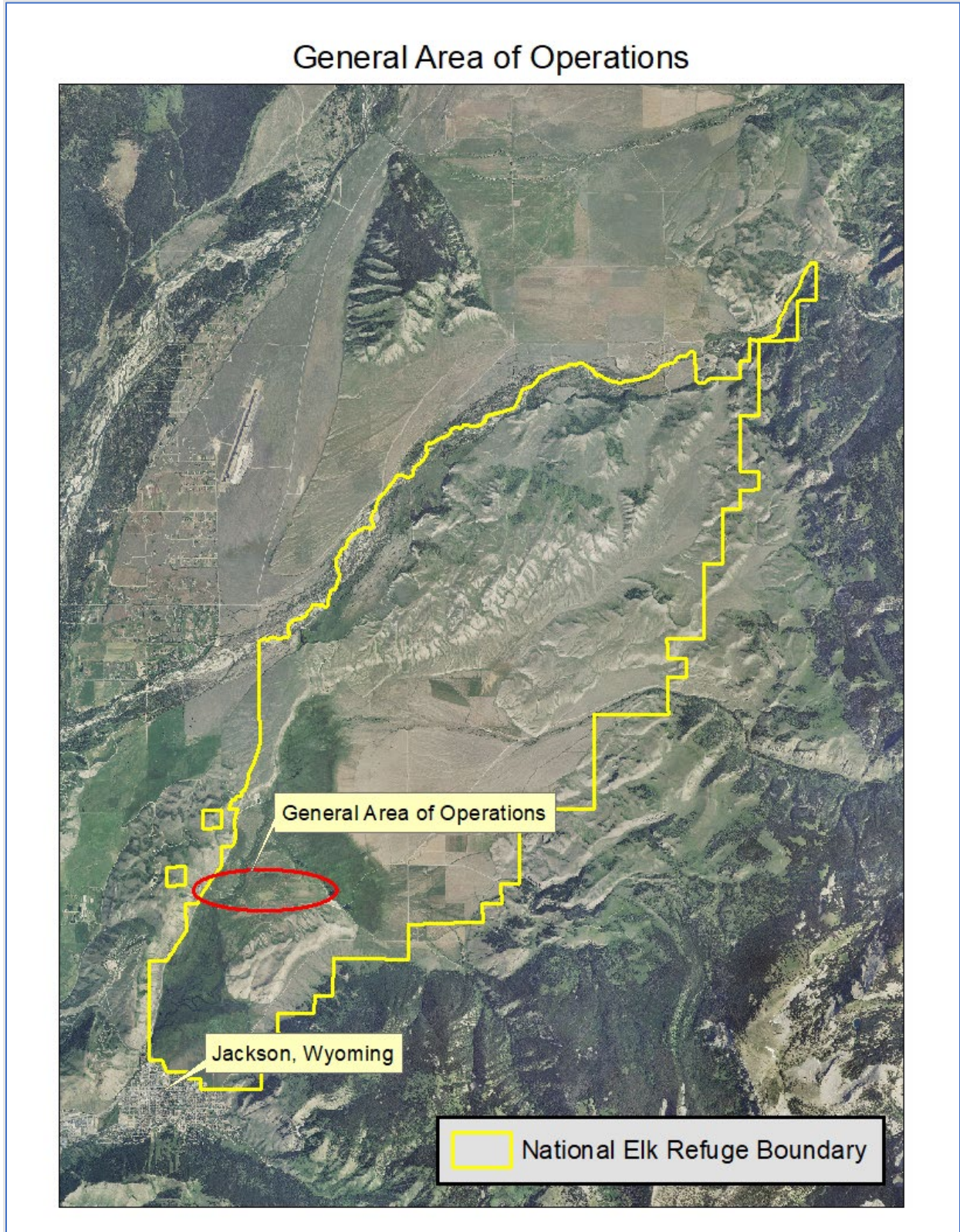


Figure 2. Sleigh and wagon ride facilities.

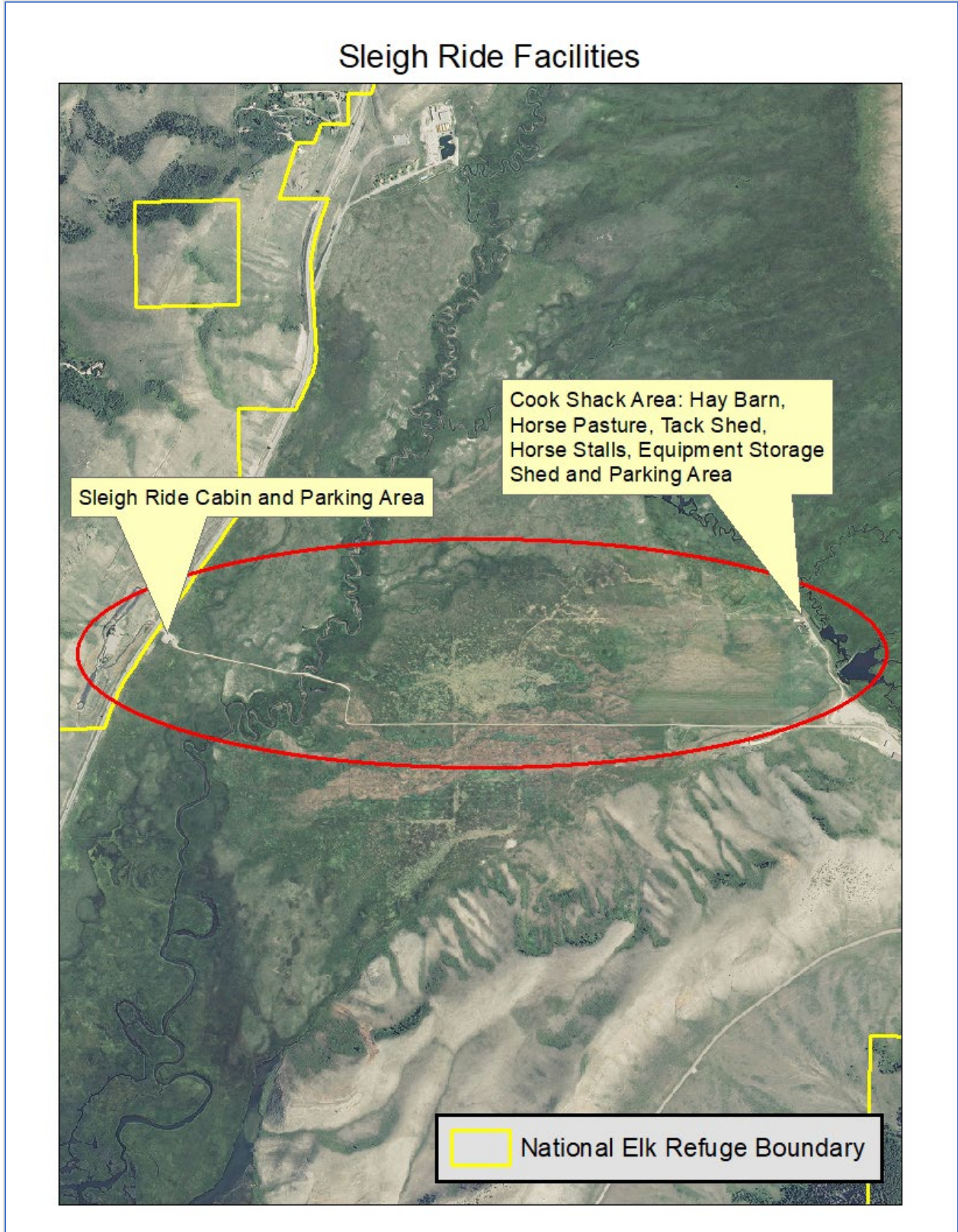
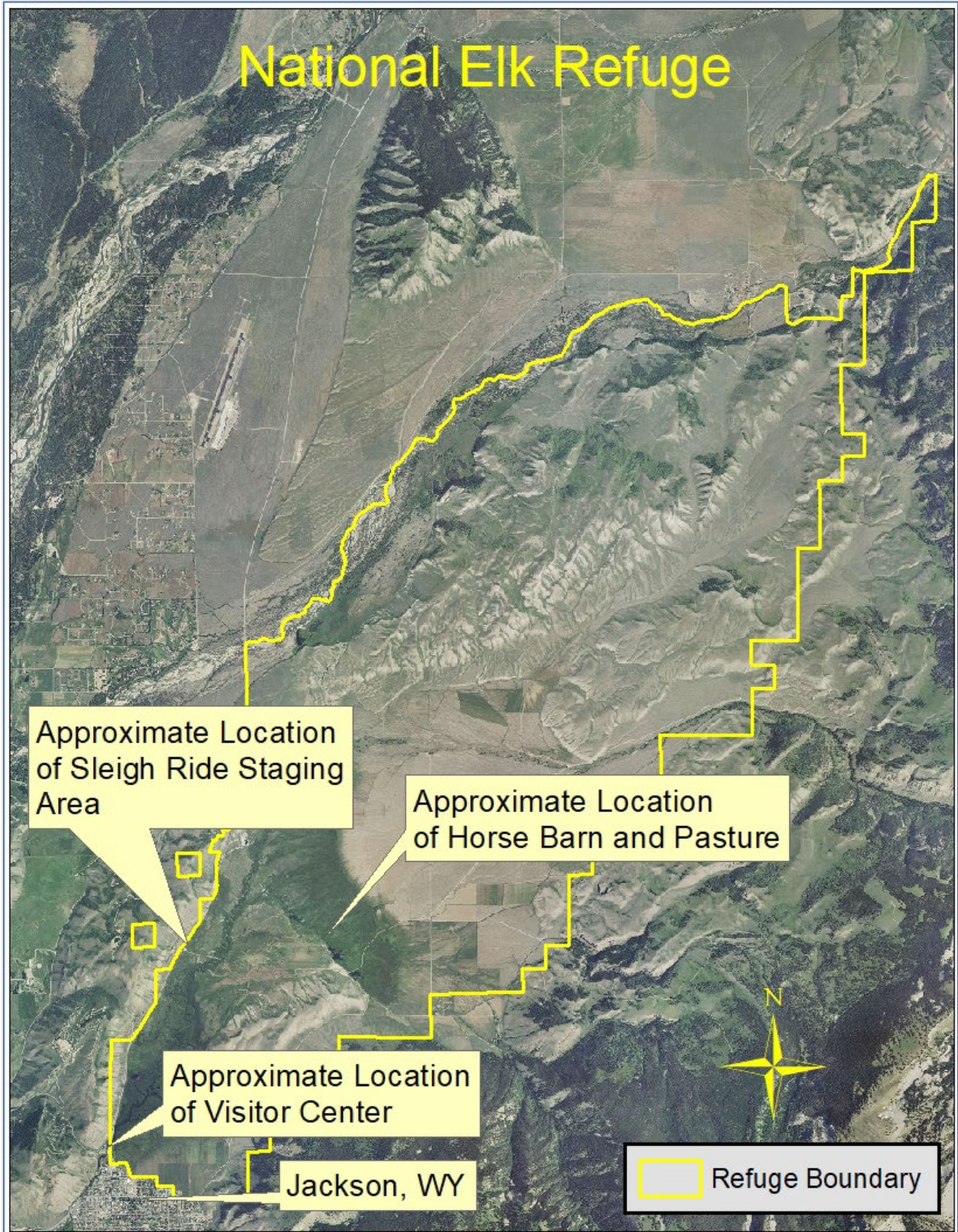


Figure 3. General location of facilities.



## Investment Analysis

### Personal Property Investment

Concessioners are required to provide Guided Sleigh and Wagon Ride Interpretive Tours within the National Elk Refuge. Transportation to and from the Visitor Center requires the use of at least two enclosed vehicles capable of carrying a minimum of forty-five (45) passengers. Guided Sleigh and Wagon Rides require the use of a minimum of eight (8) custom sleighs and eight (8) custom wagons, the use of which is weather dependent. Additionally, a minimum of 60 horses are required for the tours. Concessioners will be required to purchase, retrofit, or acquire any personal property that is necessary to operate this business opportunity. The Service estimates the initial personal property investment for guided sleigh and wagon ride tours at \$1,810,000.

Offerors will be required to purchase, retrofit, or acquire any personal property that is necessary to operate this business opportunity. Offerors should not rely on Service estimates in preparing and submitting proposals in response to this Prospectus. Offerors must make their own determinations of what Personal Property is needed to provide the services of the contracts.

### Initial Investment Summary

A breakdown of the initial amounts the Service estimates the Concessioner will invest appears in the table below. Amounts are in 2022 dollars.

#### Estimated Investment Amounts

INVESTMENT FOR HORSES	AMOUNT
60+ large breed horses (approximately \$15,000 each)	\$900,000

INVESTMENT FOR SLEIGHS	AMOUNT
8+ durable sleighs that can carry ~20 people (approximately \$10,000 each)	\$80,000.00

INVESTMENT FOR WAGONS	AMOUNT
8+ durable wagons that can carry ~20 people (approximately \$10,000 each)	\$80,000.00

INVESTMENT FOR BUSES	AMOUNT
2 buses that can carry ~50 people each (approximately \$150,000 each)	\$300,000.00

INVESTMENT FOR STOCK HAULING	AMOUNT
1 large truck for pulling horse trailer.	\$300,000.00
1 large horse trailer	\$100,000.00

INVESTMENT FOR TICKET SALES BOOTH	AMOUNT
1 towable ticket booth/trailer	\$50,000.00

The Service does not warrant the estimated amount of initial investment provided in the above tables and is not bound by these estimates. The Service presents these amounts for the sole purpose of providing an estimate of potential financial investment. Offerors should not rely on these FWS estimates of initial investment. Offerors are responsible for conducting their own due diligence and calculating their own estimates of the investment required to support the Required Services in the Draft Contract. A successful Offeror should demonstrate it has or will have the capacity to operate the full allocation of Interpretive Horse Drawn Sleigh Tours during year one of the Draft Contract.

## Subconcessions

The Concessioner **may not** enter any subconcession agreements or contracts.

## Concessioner Financial Projections

The Proposal Package of this Prospectus requires Offerors to develop financial projections based upon the services under the Draft Contract. Offerors must exercise caution in using the historical information and Service estimates. The Service will not provide financial projections. Each Offeror is responsible for conducting its due diligence, producing its own financial projections, and relying on its own financial assumptions.

## Rates

It is the objective of the Refuge to ensure that the Concessioner's rates and charges to the public are commensurate with the level of services and facilities provided, and are reasonable, justified, and comparable with similar facilities and services provided in the private sector. The Draft Contract Exhibit B - Operating Plan describes the rate approval methods used, which may be subject to change. The current approved rate determination method is market declaration for all services and facilities. Proposed rate changes require prior approval by the Refuge Manager.

## Percent Payment

The minimum percent payment fee will equal to five percent (5%) of the concessioner's annual gross receipts. Offerors may propose a higher minimum percent payment, as described more fully in the Proposal Package (included in Section III of this Prospectus). The Concessioner is responsible for submitting the correct percent payment fee to the Service based on total of gross receipts.

## Term and Effective Date of Concession Contract

This Draft Contract has a term of ten (10) years beginning on its effective date, which the Service estimates as October 1, 2023. The effective date of the Draft Contract may change prior to contract award if deemed necessary by the Service. The Service will change the expiration date of the Draft Contracts to provide the same term length from any adjustment to the effective date.

## Site Visit

A site visit is planned for May 16, 2024 at 1:00 p.m. at the National Elk Refuge & Greater Yellowstone Visitor Center, 532 N. Cache St., Jackson, WY 83001.



# **Proposal Instructions**

Guided Sleigh and Wagon Ride Interpretive  
Tours

within the  
National Elk Refuge

U.S. Fish and Wildlife Service  
U.S. Department of the Interior

**Contract No. CC-NER-01**

## PROPOSAL INSTRUCTIONS

### 1) Response Requirements for Submission of Proposal

- A. This Prospectus is issued under the authority of the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee); Regulations on Concessions – General Provisions (50 CFR Part 25.61) and FWS Policy 630 FW 6 through 8 (incorporated by reference herein and hereafter referred to as “FWS Concessions Policy”). In the event of any inconsistency between the terms of this Prospectus and FWS Concessions Policy, FWS Concessions Policy will control. The Service presumes that all persons that submit a proposal in response to this Prospectus are informed of the provisions of FWS Concessions Policy.
- B. Proposals for the Draft Contract must be received by the due date and time shown on Pag 2 of the Prospectus.
- C. Only an Offeror submitting a responsive proposal is eligible to be awarded the new concession contract. A responsive proposal means a timely submitted proposal that is determined by the Service as having provided the information required by the Proposal Instructions.

### 2) Form in Which Proposal Must be Submitted

- A. Please number each page and section in your completed proposal. Add information to your proposal only to the extent that it is necessary and relevant to respond to the factor. Each page should have a heading identifying the evaluation factor and subfactor to which the information contained on the page responds. It is important that your response stays within the organizational framework in the Proposal Package and provides all relevant information directly in response to each evaluation factor. The Service may consider relevant information contained elsewhere in a proposal in assessing the proposal’s response to each particular evaluation factor.
- B. Where page limits are set out in the Proposal Package, the Service will not review or consider the information on any pages that exceed the page limitations stated, including attachments, appendices, or other additional materials the Offeror submits. The Service would like to see clear and concise answers. A longer answer will not necessarily be considered a better answer.
- C. The Service considers text on two sides of one sheet of paper as two pages.
- D. Offerors must use normal sized font, such as 11 or 12-point, and 1-inch margins on all sides, in the body of the proposal. Tables, charts, graphs, provided forms, and copies of sample materials using less than 11-point font are acceptable.

### 3) Submission Protocol

- A. Submit three (3) identical hard copies and one electronic PDF copy to Raena\_ParsonsS@fws.gov, identical to the hard copy. In order to facilitate discussion and review of proposals among evaluation panel members, the electronic copy must be in a format that can be shared, copied,

and passed easily. Microsoft Office programs or an Adobe PDF electronic version that allows for copying and pasting of text using Adobe Reader software are acceptable. In the event of a discrepancy between the electronic copy and the hard copies, information on the hard copies will control.

- B. Enclose the hard copies in a sealed envelope with the following marked on the envelope:
  - i. National Elk Refuge, "CONCESSION PROPOSAL, MAILROOM DO NOT OPEN", 675 East Broadway, PO Box 510, Jackson, WY 83001
  - ii. The due date specified in the Prospectus for receipt of the proposal by the Service.
  - iii. The name and address of the Offeror.
- C. The Service, at the appropriate address, must receive proposals by the time and date shown on the page 2 of this Prospectus.

#### 4) Proposals Considered Public Documents

- A. All proposals submitted in response to this Prospectus may be disclosed by the Service to any person, upon request, to the extent required or authorized by the Freedom of Information Act (5 U.S.C. § 552).
- B. If you believe that your proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, mark the cover page of each copy of the proposal with the following legend:

The information specifically identified on pages of this proposal constitutes trade secrets or confidential commercial or financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act. The Offeror requests that this information not be disclosed to the public, except as may be required by law.

- C. You must specifically identify what you consider to be trade secret information or confidential commercial or financial information on the page of the proposal on which it appears, and you must mark each such page with the following legend:

This page contains trade secrets or confidential commercial and financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act, and which is subject to the legend contained on the cover page of this proposal.

- D. Information so identified will not be made public by the Service except in accordance with law.

#### 5) Questions

If you do not understand something in this prospectus, you must submit your written questions to the contact person noted on the second page of the Prospectus, no later than the date specified on the inside cover of the Prospectus. Email is the preferred method to transmit your questions, but you may also send a hard copy. Your questions must specify the section of the Prospectus that is the subject of your inquiry. The Service will respond to your questions in writing and will provide the questions and

responses to all potential Offerors who have requested a Prospectus. Questions submitted after the deadline listed may not be answered.

## 6) Evaluation of Proposals

### A. Criteria for Evaluation of Offers and Selection:

(1) The U.S. Fish and Wildlife Service will use a Technical Evaluation Panel (TEP) to review the Proposals. The TEP will consist of USFWS personnel familiar with the Refuge System, the National Elk Refuge, and Refuge sleigh ride operations and concession management issues.

(2) Evaluations will be conducted using weighted factors. The relative strengths, weaknesses, deficiencies, and risks supporting proposal evaluation will be documented in the file. The Government intends to evaluate proposals and make award without discussions. Award of the concession contract will not be subject to discussions.

(3) The Government will evaluate each proposal strictly in accordance with its content and will not assume that performance will include areas not specified in the offeror's proposal.

(4) Evaluation Factors. The TEP will examine the information contained in eligible proposals to inform its assessment of their responsiveness to the following five (5) Evaluation Factors. The TEP will assign a score that reflects the determined merits of the proposal under the applicable selection factor. Each Evaluation Factor has been given a relative weight as noted below. When taken altogether, the total maximum number of points that the TEP may give to a proposal for all Evaluation Factors is 60 points.

- A. Evaluation Factor 1: The responsiveness of the proposal to the objectives, as described in the Prospectus, of protecting, conserving, and preserving the resources of the refuge. -- 0-10 Points
- B. Evaluation Factor 2: The responsiveness of the proposal to the objectives, as described in the Prospectus, of providing safe, enjoyable, high-quality visitor services similar to those required in the Prospectus. – 0-10 Points
- C. Evaluation Factor 3: Demonstrated experience and background of the offeror, including past performance and expertise providing similar services as those described in the Prospectus. – 0-10 Points
- D.** Evaluation Factor 4: The financial capability of the offeror to carry out its proposal. – 0-10 Points
- E. Evaluation Factor 5: Operating and Maintenance Plans. – 0-10 Points
- F. Evaluation Factor 6: Proposed percentage of gross receipts payable as franchise fee to the Service. – 0-10 Points

### B. Proposal Evaluation Process

The Service, by and through the TEP, will evaluate each eligible proposal strictly in accordance with its content and will not assume that performance will include areas not specified in the proposal. The TEP will evaluate all eligible proposals, and document its determinations, in accordance with the process described below.

## 7) Process of Selecting the Best Proposal

The Service will select the responsive proposal with the highest cumulative point score as the best proposal. If two or more responsive proposals receive the same highest point score, then the Service will select as the best proposal (from among the responsive proposals with the same highest point score) the responsive proposal that the Service determines on the basis of a narrative explanation will, on an overall basis, best achieve the purposes of the FWS Concessions Policy.

A stronger offer includes firm commitments for detailed actions rather than conditional commitments or broad philosophical statements. Offerors will not receive credit in the evaluation process for mere statements of intent (e.g., Offeror will strive to X, Offeror will explore Y, or Offeror hopes to do Z). If an offer contains a commitment to take an action but does not indicate when in the Contract term the action will occur, and that offer is subsequently awarded the Contract, the Service may incorporate the commitment to take the action into the final Contract and require it to take place whenever the Service deems appropriate. Qualifications on offers (such as, "if the cost is feasible"), other than subjecting them to Service approval, will be interpreted as nullifying the offer.

## 8) Availability of a Debriefing

Offerors may request in writing a post-award debriefing after receiving the Notification of Selection/Non-Selection letter. If Offerors wish to request a debriefing, a written request for either a pre- or post-award debriefing must be received within 14 calendar days from receiving the Selection/Non-Selection letter. The Service will make every effort to debrief Offerors as soon as practicable after receiving a request. A debriefing is not an opportunity for negotiation, amendment, supplementation or reevaluation of any proposal.

## 10) Cautions to Offerors about Submission and Evaluation of Proposals

- A. All information regarding this Prospectus will be issued in writing. No Service representative or other government official is authorized to make substantive oral representations relating to this matter, and no Offeror should rely on any oral representations made by government officials with respect to this transaction.
- B. The attached Draft Contract and its Exhibits set forth the terms and conditions under which the concession operation is to be conducted. The Service may amend a Prospectus and/or extend the submission date prior to the proposal due date. The Service also may cancel a solicitation at any time before the award of the concession contract if the Service determines in its discretion that this action is appropriate in the public interest. No Offeror or other person will obtain compensable or other legal rights as a result of an amended, extended, canceled, or reissued solicitation for this concession contract.
- C. The Draft Concession Contract does not permit the provision of visitor services by the concessioner through subconcession.
- D. This Prospectus includes the evaluation factors to be used by the Service to evaluate proposals. Under each factor, the Service may identify subfactors to ensure that all elements of the factor are considered. You, the Offeror, should ensure that you fully address all of the evaluation factors and related subfactors.

- E. The information in this Prospectus, including the Appendices, is provided to allow Offerors to understand the operations and terms of the new Concession Contract. Offerors are encouraged to thoroughly review all information and required submittal documents before beginning to prepare a proposal.
- F. A proposal to expand the scope of investment, facilities, services, and/or Leasehold Surrender Interest, beyond those called for in this Prospectus will not be considered in the evaluation of proposals.
- G. A proposal to provide direct or indirect monetary or other benefits to the Refuge or government not within the scope or requirements of the contract will not be considered in the evaluation of proposals.
- H. If you propose to make any financial commitments and considerations in response to any evaluation factor, your proposal will be closely reviewed and analyzed against your financial statements and supporting documents with appropriate review of feasibility.
- I. The proposal and related materials submitted should reflect the entire proposal you are making. The Service will consider your written submission as your full and final proposal in response to the Prospectus, and will make its selection based on the written information you have submitted and other appropriate information. Do not assume that the Service knows anything about you or your proposal. This is true even if you are the current concessioner or have operated another concession within the Refuge area or National Wildlife Refuge System. In making its selection of the best proposal submitted in response to the Prospectus, the Service has the right, but not the obligation, to consider any other information relating to the matter.
- J. The Service may request from any Offeror who has submitted a timely proposal a written clarification of its proposal. Clarification refers to making clear any ambiguities that may have been contained in a proposal, but does not include amendment or supplementation of a proposal. An Offeror may not amend or supplement a proposal after the submission date unless requested by the Service to do so, and unless the Service provides all Offerors that submitted proposals a similar opportunity to amend or supplement their proposals.
- K. The selected Offeror must execute the Concession Contract promptly after the selection of the best proposal and within the time period specified by the Service. If the selected Offeror fails to execute the Concession Contract within the time period specified by the Service, the Service may select another responsive proposal for award of the Concession Contract, or will cancel the selection and may re-solicit the Concession Contract.
- L. The Service may include as terms of the Draft Concession Contract, appropriate elements of the proposal selected for award of the Concession Contract, including, without limitation, investments, facilities, services, and other commitments.
- M. Note** If you are currently providing commercial visitor services in the National Elk Refuge (the Refuge), it is important that you DO NOT assume the Service knows anything about your current operation. The Service is interested in understanding how you will conduct your operations in accordance with the Draft Contract and its Exhibits and/or how you propose to exceed minimum requirements.

# **Proposal Package**

Guided Sleigh and Wagon Ride Interpretive  
Tours

within the  
National Elk Refuge

U.S. Fish and Wildlife Service  
U.S. Department of the Interior

**Contract No. CC-NER-01**

## PROPOSAL SUBMISSION TERMS & CONDITIONS

1. The Offeror's Transmittal Letter set forth below indicates your acceptance of the terms and conditions of the concession opportunity as set forth in this Prospectus. It indicates your intention to comply with the terms and conditions of the Contract. The letter, submitted without alteration except as indicated, must bear original signatures and be included in the Offeror's Proposal Package. The US Fish and Wildlife Service (Service) will review the entire Proposal Package to determine whether your proposal in fact accepts without condition the terms and conditions of this Prospectus. If not, your proposal may be considered non-responsive, even though you submitted an unconditional Offeror's Transmittal Letter.
2. The Proposal Package is drafted upon the assumption that an Offeror is the same legal entity that will execute the new concession Contract as the Concessioner. If the entity that is to be the Concessioner is not in existence as of the time of submission of a proposal, the proposal must demonstrate that the individual(s) or organization(s) (hereinafter Offeror-Guarantor) that intends to establish the entity that will become the Concessioner has the ability and is legally obliged to cause the entity to be financially and managerially capable of carrying out the terms of the Contract. In addition, the Offeror-Guarantor must unconditionally state and guarantee in its proposal that the Offeror-Guarantor will provide the Concessioner with all funding, management, and other resources that the Draft Contract requires and the proposal offers.
3. This Prospectus consists of a solicitation for the award of one (1) Concession Contract.



## OFFEROR'S TRANSMITTAL LETTER

To:

Refuge Manager  
National Elk Refuge  
675 East Broadway Avenue  
PO Box 510  
Jackson, WY 83001

Dear Refuge Manager:

This Proposal Package is for Guided Interpretive Sleigh and Wagon Rides on the National Elk Refuge currently authorized by Concession Contract number CC-NER-01.

The name of the Offeror is \_\_\_\_\_. If the Offeror has not yet been formed, this letter is submitted on its behalf by \_\_\_\_\_ as Offeror-Guarantor(s), who guarantee(s) all certifications, agreements and obligations of Offeror hereunder and make(s) such certifications, agreements and obligations individually and on behalf of the Offeror.

The Offeror hereby agrees to provide visitor services and facilities within the National Elk Refuge in accordance with the terms and conditions specified in the Draft Concession Contract CC-NER-01 (Draft Contract) provided in the Prospectus issued by the public notice as listed in the Federal Business Opportunities ([www.fedbizopps.gov](http://www.fedbizopps.gov)) and other public outlets, and to execute the Draft Contract without substantive modification (except as may be required by the US Fish and Wildlife Service pursuant to the terms of the Prospectus and the Offeror's Proposal). If the Offeror is not yet in existence, the undersigned, acting as guarantor(s) of all certifications, agreements and obligations of Offeror hereunder, makes such certifications, agreements and obligations individually and on behalf of the Offeror.

The Offeror is enclosing the required "PROPOSAL" which, by this reference, is made a part hereof.

The Offeror certifies that the information furnished herewith is complete, true, and correct, and recognizes that false statements may subject the Offeror to criminal penalties under 18 U.S.C. 1001. The Offeror agrees to meet all the minimum requirements of the Draft Contract and the Prospectus. The Offeror certifies that it has provided all of the mandatory information specified in the Prospectus.

The Offeror certifies in accordance with applicable law the following (initial all that apply):

1. None of the individuals or entities acting as Offeror or with an ownership interest in the Offeror is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from a public transaction by a federal department or agency. \_\_\_\_\_
2. Within the three years preceding submission of the Proposal, none of the individuals or entities acting as Offeror or with an ownership interest in the Offeror has been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, or for violation of federal or state antitrust

statutes or for commission of embezzlement, theft, forgery, bribery, falsification of records, making false statements, or receiving stolen property. \_\_\_\_\_

3. None of the individuals or entities acting as Offeror or with an ownership interest in the Offeror is presently indicted for or otherwise criminally or civilly charged by a federal, state or local unit of the government with commission of any of the aforementioned offenses. \_\_\_\_\_
4. The individuals or entities acting as Offeror or with an ownership interest in the Offeror have not had one or more public transactions (federal, state or local) terminated for cause or default within the three-year period preceding the submission of the Proposal. \_\_\_\_\_
5. The individuals or entities seeking participation in this Concession Contract have not had one or more public transactions (federal, state or local) terminated for cause or default within the three-year period preceding the submission of the Proposal. \_\_\_\_\_
6. If a corporation, the Offeror does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. \_\_\_\_\_
7. If a corporation, the Offeror has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months. \_\_\_\_\_

If the Offeror is unable to certify one or more of the items above, it may sign this transmittal letter and, together with this transmittal letter, must submit detailed information explaining why it is unable to certify the item(s). The information the Offeror must submit includes a description of every incident that prevents the Offeror from certifying the item(s); the current status of each incident; and, if resolved, how each incident was resolved. The Offeror must explain how these incidents may affect the Offeror's ability to fulfill the terms of the Draft Contract.

The Offeror, by submitting this Proposal hereby agrees, if selected for award of the Draft Contract:

1. To perform, in a timely and competent manner, the minimum requirements of the Draft Contract as identified in this Prospectus.
2. To complete the execution of the final Concession Contract within the time provided by the US Fish and Wildlife Service when it presents the contract for execution.
3. To commence operations under the resulting Concession Contract on the effective date of the Concession Contract.
4. To operate under the current US Fish and Wildlife Service approved rates until such time as amended rates may be approved by the US Fish and Wildlife Service.[Include only if the Offeror is not yet in existence.] To provide the entity that is to be the Concessioner under the Draft Contract with the funding, management, and other resources required under the Draft Contract and/or described in our Proposal.[Include only if the Offeror is a business entity, rather than an individual] To deliver to the Refuge Manager within 10 days following the announcement of the selection of the Offeror as the Concessioner, current copies of the following:
  - Certificate from its state of formation indicating that the entity is in "good standing"(if such form is issued in that state for Offeror's type of business entity);
  - Governing documents of Offeror (e.g. Articles of Incorporation and By-Laws for corporations; Operating Agreement for LLCs; Partnership Agreement for Partnerships; or Venture Agreement for Joint Ventures); and

- If the business entity was not formed in the State of Wyoming, evidence that it is qualified to do business in Wyoming.

NAME OF OFFEROR (or OFFEROR-GUARANTOR(s) if the Offeror is not yet in existence as of the time of submission – list all if more than one and clearly indicate that the entity is an Offeror-Guarantor):

BY \_\_\_\_\_ DATE \_\_\_\_\_

(Type or Print Name)

ORIGINAL SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

**CERTIFICATE OF BUSINESS ENTITY OFFEROR**  
(OR OF OFFEROR-GUARANTOR IF OFFEROR IS NOT YET FORMED)  
(Offerors who are individuals should skip this certificate)

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the [specify one] corporation/partnership/limited liability company/joint venture named as Offeror (or Offeror-Guarantor, if applicable) herein; that I signed this proposal for and on behalf of the Offeror (or Offeror-Guarantor, if applicable), with full authority under its governing instrument(s), within the scope of its powers, and with the intent to bind the entity.

NAME OF ENTITY: \_\_\_\_\_

BY \_\_\_\_\_ DATE \_\_\_\_\_

(Type or Print Name)

ORIGINAL SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## PROPOSAL QUESTIONS

### **EVALUATION FACTOR 1. THE RESPONSIVENESS OF THE PROPOSAL TO THE OBJECTIVES, AS DESCRIBED IN THE PROSPECTUS, OF PROTECTING, CONSERVING, AND PRESERVING RESOURCES OF THE REFUGE. (0-10 POINTS)**

#### **Service Objectives:**

The US Fish and Wildlife Service objectives for protecting, conserving, and preserving the specific resources of the National Elk Refuge are as follows:

- a) Preserving the natural environment of the Refuge, including impacts to wildlife, wildlife habitat, and natural sound and air quality.
- b) Providing education to the public regarding Refuge environmental protection and awareness.

#### **Subfactor 1(a). Conducting Sleigh Ride Tours**

Using not more than three (3) pages, including all text, pictures, graphs etc.:

- Explain how you will ensure your operations are conducted in a manner that will minimize your impact on wildlife and protect the natural environment of the Refuge. Provide specific examples of measures you will take to minimize impacts to the Elk at the refuge.

#### **Subfactor 1(b) Education to the Public**

Using not more than three (3) pages, including all text, pictures, and graphs, describe how you will:

- Educate your clients about Refuge resources, such as its cultural and natural history, and resource management challenges (for example, supplemental feeding of bison and elk), conserving wildlife, avoiding the introduction and spread of invasive species, and climate change.
- Inform and/or train your guides about the topics referenced above and other environmental issues.
- Develop or help your guides develop interpretive programs appropriate for sleigh ride tours.
- Ensure your guides' presentations are accurate and effectively delivered throughout the season.

### **EVALUATION FACTOR 2. THE RESPONSIVENESS OF THE PROPOSAL TO THE OBJECTIVES, AS DESCRIBED IN THE PROSPECTUS, OF PROVIDING SAFE, ENJOYABLE, HIGH-QUALITY VISITOR SERVICES SIMILAR TO THOSE REQUIRED IN THE PROSPECTUS. (0 - 10 POINTS)**

#### **Service Objectives:**

The Service's objective is to ensure that Concessioners provide visitors with a consistent, high-quality, safe, educational, and enjoyable visitor experience at reasonable rates while operating within the parameters and framework of Refuge operations and management goals.

#### **Subfactor 2(a). Quality of the Overall Visitor Experience**

Using no more than three (3) pages, including all text, pictures, graphs etc., describe how you will consistently provide visitors with a high-quality, educational, and enjoyable sleigh ride experience. Make sure to include:

- A description of the sleigh rides your business will provide (length, duration, etc.)
- How will you make visitors comfortable given the conditions of the Refuge in winter months.

#### **Subfactor 2 (b). Visitor, Employee, and Stock Safety**

Using no more than three (3) pages, including all text, pictures, graphs etc., identify the proactive measures you will implement, beyond those required by the Draft Contract and its Exhibits, to

- conduct your operations in a manner that will minimize risk to visitors and employees;
- communicate safety policies and practices to visitors and employees; and
- keep stock healthy, safe and in optimal condition for the sleigh rides.

#### **EVALUATION FACTOR 3. DEMONSTRATED EXPERIENCE AND BACKGROUND OF THE OFFEROR, INCLUDING THE PAST PERFORMANCE AND EXPERTISE PROVIDING SIMILAR SERVICES AS THOSE DESCRIBED IN THE PROSPECTUS. (0-10 POINTS)**

Note to Offeror: To assist in the evaluation of proposals under this and other evaluation factors, provide the following information regarding the organizational structure of the business entity that will execute the Draft Contract. This organizational structure information will not be scored for selection purposes, but may be used for assessing responses to various evaluation factors. If the Offeror is not yet in existence, the Offeror-Guarantor should describe its own experience and explain how such experience will carry over to the Offeror entity.

##### **Offeror's Organizational Structure**

Describe the entity with which the Service will contract, specifying whether it is currently in existence or is to be formed. Clearly define the Offeror's relationship to all superior and subordinate entities. Identify the entity, if other than the Offeror, that has the authority to allocate funds, hire and fire management employees of the Offeror. Identify any individual or business entity that holds or will hold a controlling interest in the Offeror. If the Offeror is a limited liability company, a partnership, or a joint venture, identify and provide information about each managing member or general partner or venturer, respectively.

Submit your organizational documents (e.g., partnership agreement, articles of incorporation).

Using the appropriate Business Organization Information form (as applicable) at the end of this section, identify the Offeror and each business entity and/or individual to be involved in the management of the proposed concession operation. Use the form appropriate for your business entity or sole proprietorship and include all information necessary to make the relationship among the parties clear. When completed, the Business Organization Information form should convey the following information:

1. Full legal name of the Offeror and any trade name under which it proposes to do business.
2. The legal form of the Offeror, if other than an individual.

3. The name, address and, if applicable, form of business entity of all owner(s) of the Offeror, including, without limitation, all levels of parent organizations, their relationship to the Offeror, and the precise extent of their ownership interests.
4. The name, address and, if applicable, form of business entity of all related, subordinate, or superior business organizations and/or individuals that will have a significant role in managing, directing, operating, or otherwise carrying out the services to be provided by the Offeror. Describe in detail how these relationships will work formally and in practice. Use additional pages if the information does not fit within the forms provided.
5. If applicable, the length of Offeror's existence as a business entity.

### **Subfactor 3(a). Organization and Personnel**

The Service is seeking Offerors that are organized and structured to carry out the responsibilities of the Draft Contract and that demonstrate a commitment to excellence by hiring personnel with the most professional experience, education, and accomplishments. Using not more than three (3) pages, including all text, pictures, graphs, etc., demonstrate that your organization is structured and staffed to effectively carry out the responsibilities of the Draft Contract including utilizing the number of OSV transportation events allocated in the Draft Contract by providing the following information:

1. A clear description of how you will manage and execute the services contemplated under the Draft Contract.
2. Identify the person with the full decision-making authority and identify the person that will be the primary contact for the Service regarding day-to-day operations and issues.
3. Provide a list of qualifications you will require of all key management personnel, administrative staff and guides. Include all relevant tasks, knowledge or positions held, including minimum number of years of experience, any training or certifications and education that you would require of these positions. Please do not include specific résumés.
4. Describe the efforts you will undertake to hire and to retain qualified employees at all levels within your organization.

### **Subfactor 3(b). Experience with Operations Similar to those in the Draft Contract**

The Service is particularly interested in your experience with operations that have a scope of services similar to those offered under the Draft Contract. Using not more than three (3) pages, including all text, pictures, graphs etc., demonstrate your experience in providing services similar to those required in the Draft Contract by providing an example that includes the following:

1. Name and location of operation
2. Description of services offered
3. How long the services have been provided by this operation
4. Any special operating conditions or challenges (e.g., remote location, extreme environment or weather conditions, employee retention)
5. Annual number of trips and customers in the past two years.
6. Average number of trips per week.
7. Length of individual trips.

### **Subfactor 3(c). References**

Using not more than three (3) pages, including all text, pictures, graphs etc., provide three references that can confirm your answers to the questions under Subfactor 3(b).



**FORM 1**

**Business Organization Information  
Corporation, Limited Liability Company, Partnership  
or Joint Venture  
(Principal Evaluation factor 3)**

Complete separate form for the submitting business entity and any and all parent entities.

<b>Name of Entity and Trade-name, if any</b>	
<b>Address</b>	
<b>Telephone Number</b>	
<b>FAX Number</b>	
<b>Email Address</b>	
<b>Contact Person</b>	
<b>Title</b>	
<b>Tax ID#</b>	
<b>State of Formation</b>	
<b>Date of Formation</b>	

<b>Ownership</b>	<b>Percentage of Ownership Interest</b>	<b>Current Value of Investment</b>
Names and Addresses of those with controlling interest and key principals of business		
Total Interests Outstanding and Type(s):		

<b>Officers and Directors Or General Partners Or Managing Members Or Venturers</b>	<b>Address</b>	<b>Title And/Or Affiliation</b>

**Attach the following:**

- Description of relationship of any and all parent entities to the Offeror with respect to funding and management.

**FORM 2**

**Business Information  
Individual\* Or Sole Proprietorship  
(Principal Evaluation factor 3)**

<b>Name of Individual and Tradename, if Any**</b>	
<b>Address</b>	
<b>Telephone Number</b>	
<b>Fax Number</b>	
<b>Email Address</b>	
<b>Contact Person (if other than Offeror)</b>	
<b>Tax ID #</b>	
<b>Years in Business (of same type as required service(s))</b>	
<b>Current Value of Business</b>	
<b>Role in Providing Concession Service(s)</b>	

\*Due to difficulties determining authority to act and ownership, the Service will not accept a proposal from spouses jointly as a purported business entity. Either one individual must serve as the Offeror or the spouses must form a corporation, partnership, or limited liability company to serve as Offeror.

\*\*If the sole proprietorship acts under a name other than that of its owner (i.e., does business as "company name"), also add the jurisdiction where the company's trade name is registered, if any.

**Note to Offerors:**

In Principal Evaluation factor 4, the Service requires you to provide information by submitting documents and completing provided forms.

If you fail to provide such information, the Service may consider your proposal non-responsive.

If the Service determines your proposal non-responsive:

- You will not be selected as the best Offeror

**PRINCIPAL EVALUATION FACTOR 4. THE FINANCIAL CAPABILITY OF THE OFEROR TO CARRY OUT ITS PROPOSAL. (0-5 POINTS)**

**Note to Offeror:**

In the event the Offeror is not yet in existence, provide the information described below with respect to both the to-be-formed Offeror and the Offeror-Guarantor(s), which must unconditionally state and guarantee that the Offeror-Guarantor(s) will provide the Offeror with all funding, management and other resources that the Draft Contract requires and the proposal offers.

The Offeror must complete all provided forms.

**Subfactor 4(a). Demonstrate that you have a credible, proven track record of meeting your financial obligations by providing the following:**

1. Complete the **Business History Information** form
2. Provide a CURRENT (within the last six months) and complete **Business Credit Report with a Credit Score** in the name of the Offeror from a major credit reporting company such as Equifax, Experian, TRW or Dun & Bradstreet. If the credit report includes negative information, provide a narrative explanation.

**Notes to Offeror:**

In the event the Offeror is not yet in existence or if you cannot obtain a Business Credit Report, submit Personal Credit Reports for each individual listed below. Corporations must submit a Business Credit Report:

- For sole proprietors, submit a personal Credit Report for the owner.
- For partnerships, submit a personal Credit Report for each general partner.
- For limited liability companies, submit a personal Credit Report for each member.
- For S corporations, submit a personal Credit Report for each shareholder with an ownership percentage greater than 20 percent.

3. Complete the appropriate **Financial Statements** as described below:

Financial Statements include both an Income Statement and a Balance Sheet. An income statement lists all of your income and expenses as of the last day of your most recent fiscal year. A balance sheet lists everything that you own and everything that you owe as of a certain time-period.

The Service needs this information to verify there are enough funds available to be able to pay the required expenses to operate the Draft Contract and satisfy any other existing debt. If your total debt exceeds current assets, provide a narrative explaining how these debts will be paid.

By signing the Offeror's Transmittal Letter, you certify that the information you provide is complete, true, and correct.

**The Service requires all existing business entities to submit Business Financial Statements.**

Complete the Most Recent Fiscal Year Balance Sheet (Table 1), the Most Recent Month Balance Sheet (Table 2), and the Historical Income Statement (Table 3) provided below.

**The Service requires Sole Proprietors and Offerors not yet in existence to submit Personal Financial Statements.**

Complete the Personal Financial Statements (Table 4) below.

If you operate as something other than a Sole Proprietorship and rely on individual(s) to finance the business, you should supply both Business and Personal Financial Statements.

This could include:

- For sole proprietors, submit a Personal Financial Statement for the owner.
- For partnerships, submit Personal Financial Statements for each general partner.
- For limited liability companies, submit Personal Financial Statements for each member.
- For S corporations, submit Personal Financial Statements for each shareholder with an ownership percentage greater than 20 percent.

**Business History Information Form**  
**(Principal Evaluation factor 4 – Subfactor 4a)**

Provide business history information for the Offeror AND all parent companies. If the Offeror has not been formed yet, provide a Business History Information Form for the owner of a sole proprietorship, general partners in a partnership, members of a limited liability company, or shareholders with an ownership percentage greater than 20 percent of an S corporation.

The information provided below is for the entity: \_\_\_\_\_

- A. Has the Offeror ever defaulted from or been terminated from a management or concession contract or been forbidden from contracting by a public agency or private company?
  - i. YES    NO
  - ii. If YES, provide full details of the circumstances.
  
- B. List all Bankruptcies, Receiverships, Foreclosures, Transfers in Lieu of Foreclosure, and Work-Out/Loan Modification Transactions during the past five years. If none, indicate this. Attach an explanation of the circumstances, including nature of the event, date, type of debt (e.g., secured or unsecured loan), type of security (if applicable), approximate amount of debt, name of lender, resolution, bankruptcy plan, and other documentation as appropriate.
  
- C. Describe any pending litigation or administrative proceeding (other than those covered adequately by insurance) that, if adversely resolved, could materially impact the financial position of the Offeror.
  
- D. Describe all lawsuits, administrative proceedings, or bankruptcy cases within the past five years that concerned the Offeror's alleged inability or unwillingness to meet its financial obligations.

**Table 1: Business Financial Statement- Most Recent Fiscal Year Balance Sheet  
For the Fiscal Year Ending: \_\_\_\_\_**

**Business Financial Statement – Most Recent Fiscal Year Balance Sheet  
(Principal Evaluation factor 4 – Subfactor 4a)**

1	Cash in Bank	\$
2	Accounts Receivable	\$
3	Inventory	\$
4	Other Current Assets (Describe)	\$
5	<b>Total Current Assets (add lines 1-4)</b>	\$
6	Personal Property (Equipment) Items	\$
7	Other Fixed Assets (Describe)	\$
8	(Less Accumulated Depreciation)	\$
9	<b>Total Fixed Assets (add lines 6-7, minus 8)</b>	\$
10	<b>Total Assets (add lines 5 and 9)</b>	\$
11	Accounts Payable	\$
12	Bank Loans Outstanding	\$
13	Loans due to Owners	\$
14	Other Current Liabilities	\$
15	<b>Total Current Liabilities (add lines 11-14)</b>	\$
16	Long Term Liabilities (Describe)	\$
17	<b>Total Liabilities (add lines 15 and 16)</b>	\$
18	<b>Total Net Worth (line 10 minus line 17)</b>	\$

**Describe the information in lines 4, 7, 14 and 16 below:**

**Table 2: Business Financial Statement- Most Recent Month Balance Sheet**

**For the Month Ending:** \_\_\_\_\_

**Business Financial Statement- Most Recent Month Balance Sheet  
(Principal Evaluation factor 4 - Subfactor 4a)**

1	Cash in Bank	\$
2	Accounts Receivable	\$
3	Inventory	\$
4	Other Current Assets (Describe)	\$
5	<b>Total Current Assets (add lines 1-4)</b>	\$
6	Personal Property (Equipment) Items	\$
7	Other Fixed Assets (Describe)	\$
8	(Less Accumulated Depreciation)	\$
9	<b>Total Fixed Assets (add lines 6-7, minus 8)</b>	\$
10	<b>Total Assets (add lines 5 and 9)</b>	\$
11	Accounts Payable	\$
12	Bank Loans Outstanding	\$
13	Loans due to Owners	\$
14	Other Current Liabilities	\$
15	<b>Total Current Liabilities (add lines 11-14)</b>	\$
16	Long Term Liabilities (Describe)	\$
17	<b>Total Liabilities (add lines 15 and 16)</b>	\$
18	<b>Total Net Worth (line 10 minus line 17)</b>	\$

**Describe the information in lines 4, 7, 14 and 16 below:**

**Table 3: Business Financial Statement- Historical Income Statement**

**Historical Income Statement  
(Principal Evaluation factor 4 - Subfactor 4a)**

**Some lines may not be used, place "N/A" in these lines.**

Include revenues and expenses related to the business as a whole, including any operations both inside and outside of the Refuge.

		<b>Year 1</b>	<b>Year 2</b>
1	<b>Revenues</b>	\$	\$
2	Revenue Source 1	\$	\$
3	Revenue Source 2	\$	\$
4	Revenue Source 3	\$	\$
5	Revenue Source 4	\$	\$
6	<b>Total Revenues (add lines 2-5)</b>	\$	\$
7	<b>Cost of Sales</b>	\$	\$
8	<b>Total Cost of Sales</b>	\$	\$
9	<b>Gross Profit (line 6 minus line 8)</b>	\$	\$
10	<b>Direct Expenses</b>	\$	\$
11	Salaries and Wages	\$	\$
12	Payroll Taxes and Benefits	\$	\$
13	Operating Supplies	\$	\$
14	Car and Truck Expenses	\$	\$
15	Other Direct Expenses 1	\$	\$
16	Other Direct Expenses 2	\$	\$
17	<b>Total Direct Expenses (add lines 11-16)</b>	\$	\$
18	<b>Undistributed Expenses</b>	\$	\$
19	Administrative and General	\$	\$
20	Marketing (Advertising)	\$	\$
21	Utilities	\$	\$
22	Repair and Maintenance	\$	\$
23	Other Undistributed Expenses 1	\$	\$
24	Other Undistributed Expenses 2	\$	\$
25	<b>Total Undistributed Expenses (add lines 19-24)</b>	\$	\$
26	<b>Fixed Expenses</b>	\$	\$
27	Insurance	\$	\$
28	FWS Franchise Fee (if applicable)	\$	\$
29	Other Fixed Expenses 1	\$	\$
30	Other Fixed Expenses 2	\$	\$
31	<b>Total Fixed Expenses (add lines 27-30)</b>	\$	\$
32	<b>EBITDA* (line 9, minus lines 17, 25 and 31)</b>	\$	\$
33	Depreciation and Amortization	\$	\$
34	Interest	\$	\$
36	<b>Net Income Before Taxes</b>	\$	\$

\*Earnings before Interest, Taxes, Depreciation and Amortization



**Table 4: Personal Financial Statement**

**Personal Financial Statement (Principal Evaluation factor 4 - Subfactor 4a)**

<b>Name:</b>		
<b>As of Date:</b>		
<b>% Ownership:</b>		
<b>Highlight One:</b>	Sole Proprietor	Partnership
	LLC	S Corporation
1	Cash in Bank	\$
2	IRA and Other Retirement	\$
3	Stocks and Bonds in Taxable Accounts	\$
4	Real Estate	\$
5	Accounts and Loans Receivable	\$
6	Life Insurance (Cash Surrender Value Only)	\$
7	Automobile (Present Value Only)	\$
8	Other Personal Assets (Describe)	\$
9	<b>Total Assets (add lines 1-8)</b>	\$
10	Accounts Payable	\$
11	Bank Loans Outstanding	\$
12	Mortgage Loans Outstanding	\$
13	Other Loans Outstanding (Describe)	\$
14	Unpaid Tax Liability	\$
15	Other Liabilities (Describe)	\$
16	<b>Total Liabilities (add lines 10-14)</b>	\$
17	<b>Total Net Worth (add lines 9 and 15)</b>	\$
18	Salary	\$
19	Investment Income	\$
20	Other Income (Describe)	\$
21	<b>Total Income (add lines 17-19)</b>	\$
22	Endorsements or Guarantees	\$
23	Legal Claims and Judgements	\$
24	Other Contingent Liabilities	\$
25	<b>Total Contingent Liabilities</b>	\$

**Subfactor 4(b).**

**Service Objectives for sleigh ride tours:**

Under this Subfactor the Offeror must identify the investment necessary to obtain the equipment to maximize the use of all sleigh ride events allocated throughout the term of the Draft Contract.

**Demonstrate your proposal is financially viable and that you understand the financial obligations of the Draft Contract by providing the following:**

**1) Personal Property**

Using Table 5 below, list of all currently owned personal property with monetary value equal to or exceeding \$1,000 that you will use for your operations inside of the Refuge and provide an estimate of the current value. Unlike Subfactor 4a, do not include any personal property for your operations outside of the Refuge.

Using Table 5 below, list all of the personal property with monetary value equal to or exceeding \$1,000 that you will use for this operation and that you will acquire prior to operation.

A successful Offeror should demonstrate it has or will have the capacity to operate the full allocation of sleigh ride events for the first year of the Draft Contract.

**Table 5: Personal Property to be used in the Draft Contract**

**Personal Property to be used in the Draft Contract (Principal Evaluation factor 4 - Subfactor 4b)**

Personal Property	Quantity	Value of <b>Currently Owned</b> Personal Property
		\$
		\$
		\$
		\$
<b>Total Value of Currently Owned Personal Property</b>		<b>\$</b>
Personal Property	Quantity	Value of Personal Property that <b>will be Acquired</b> Prior to Operation
		\$
		\$
		\$
		\$
<b>Total Value of Personal Property Investment</b>		<b>\$</b>

## **2) Start-Up Costs**

Please estimate the start-up costs needed to begin operating the business (within the Refuge only) and use those estimates to complete the Table 6 below. Only provide estimates for those items you need to acquire in order to begin operating. Do not include costs for items you already own. For working capital (cash), estimate the amount of cash you will need to have available after purchasing the other items (please describe) in order to begin operating the business. For example, working capital would include salaries and rent you will pay before you generate income from the operations in the Refuge.

The total "Value of Personal Property Investment that will be Acquired Prior to Operation" that you listed in the previous table should be equal to the amount you list for Personal Property in this table.

**Table 6: Start-Up Costs**

**Estimate of Investment Required to Begin Operations in the Draft Contract  
(Principal Evaluation factor 4 – Subfactor 4b)**

<b>Acquisition/Investment Category</b>	<b>Acquisition/Investment Amount</b>
Personal Property (Equipment)	\$
Merchandise (Inventory)	\$
Supplies	\$
Working Capital (Cash)	\$
Other (Describe)	\$
<b>Total Funds Needed</b>	<b>\$</b>

**Describe "Other" investment listed in the table:**

### **3) Operating Projections**

Based on the condition of your personal property provided or purchased for the operation, attach a list of items using Table 7, that you will need to replace during the term of the Draft Contract. Include the anticipated year for the expenditure, the quantity of item(s) to be replaced, the description of the item(s), the approximate total value of the replacement, and how you plan to pay for the personal property replacement. (For example; cash, bank loan etc.).

If your projected expenditures for personal property investments exceeds \$1,000, provide an explanation of how you will fund the investment.

If you will not need to replace personal property during the term of the draft contract, explain your reasoning.

Add or remove years as needed.

**Table 7: Additional Personal Property Investments**

**Additional Personal Property Investments during the term of the Draft Contract  
(Principal Evaluation factor 4 - Subfactor 4b)**

Anticipated Year of Expenditure	Quantity	Capitalized Personal Property (Equipment) Items	Total Value	How will you fund the investment?
Year 1				
Year 2				
Year 3				
Year 4				
Year 5				
Year 6				
Year 7				
Year 8				
Year 9				
Year 10				

**Subfactor 4(c). Demonstrate your ability to obtain the required funds for start-up costs (those set out in 4(b)(2) above) under the Draft Contract by providing credible, compelling documentation, particularly evidence from independent sources, such as bank statements, financial statements, and signed loan commitment letters. Fully explain the financial arrangements you propose, using the following guidelines:**

1. If you will obtain funds for the start-up costs from lending institutions (banks, savings and loans, etc.), provide financing agreements or letters of commitment that include at a minimum the amount of the loan, the interest rate, the term of the loan, and any encumbrances on the loan. The financing agreements or letters of commitment must be addressed to the Service from the lender on the institution's letterhead stating the amount of funds available to you at the date of the letter and at the projected effective date of the Draft Contract.
2. If you will obtain funds for the start-up costs from an individual or entity other than yourself, provide the following as appropriate:
  - Current bank/financial statements of the individual or entity that verify the account and account balance.
  - Signed commitment from the individual and all other parties named on the account to use the cash in the account for the purpose of funding the start-up costs of the operation.
  - Current personal financial statement certified as to accuracy and completeness by the individual submitting it.
  - Documentation of any assets to be sold.
  - Any other assurances or documents that demonstrate the funds are available.
3. If you will use funds for start-up costs from your personal cash balances or the sale of liquid assets (e.g., stocks), provide the following:
  - Current bank/financial statements that verify the account and account balance.
  - Signed commitment from all other parties named on the account to use the cash in the account for the purpose of funding the start-up costs of the operation.

**Note to Offerors:** The Service uses this information to verify that funds actually exist and will be available when you need them.

#### **PRINCIPAL EVALUATION FACTOR 5. OPERATING AND MAINTENANCE PLANS. (0-10 POINTS)**

The Service is particularly interested in your ability to adhere to and conform with the Operating Plan (Exhibit A) and Maintenance Plan (Exhibit E) in this Prospectus. Using not more than three (3) pages, including all text, pictures, graphs etc., demonstrate your experience and ability to adhere to and conform with these Plans.

#### **PRINCIPAL EVALUATION FACTOR 6. PROPOSED PERCENTAGE OF GROSS RECEIPTS PAYABLE AS PERCENTAGE PAYMENT TO THE SERVICE. (0-10 POINTS)**

The minimum percentage payment acceptable to the Service is five percent (5%). State the amount of payment percentage you propose. Such fee must at least equal the minimum percentage payment set forth above. Express this fee as a percentage of annual gross receipts. Do not



propose a tiered percentage payment in which the tier levels differ from those stated above. For example, do not propose X% on the first \$250,000 of gross receipts rather than the first \$200,000 earned each year.

\_\_\_\_\_ Percent of annual gross receipts

# **Draft Concession Contract**

Guided Sleigh and Wagon Ride Interpretive  
Tours

within the  
National Elk Refuge

U.S. Fish and Wildlife Service  
U.S. Department of the Interior

**Contract No. CC-NER-01**

**DRAFT**

**MAJOR CONCESSION CONTRACT**  
**UNITED STATES DEPARTMENT OF THE INTERIOR**  
**US FISH AND WILDLIFE SERVICE**  
National Elk Refuge

Guided Horse Drawn Sleigh Rides

**CONCESSION CONTRACT NO. CC-NER-01**

Name of Concessioner

Concessioners address, email, phone number

Doing Business As (trade name)

Covering Period ??? trough ??? <sup>1</sup>

<sup>1</sup>The effective date of the Contract is subject to change prior to contract award if determined necessary by the Service due to transfer timing issues. The expiration date will be changed to continue the same term length from any effective date. This footnote is to be deleted prior to contract execution.

## **CONCESSION CONTRACT**

### **TABLE OF CONTENTS**

#### **IDENTIFICATION OF THE PARTIES**

##### **[CORPORATION]**

**THIS CONTRACT** is made and entered into by and between the United States of America, acting in this matter by the Director of the US Fish and Wildlife Service, through the Regional Director of the Mountain-Prairie Region, (hereinafter referred to as the "Director"), and [Concessioner Name], a Corporation organized and existing under the laws of the State of [state name], (hereinafter referred to as the "Concessioner"):

##### **[PARTNERSHIP]**

**THIS CONTRACT** is made and entered into by and between the United States of America, acting in this matter by the Director of the US Fish and Wildlife Service, through the Regional Director of the Mountain-Prairie Region, (hereinafter referred to as the "Director"), and [Concessioner Name], a partnership organized under the laws of the State of [state name], (hereinafter referred to as the "Concessioner"):

##### **[SOLE PROPRIETORSHIP]**

**THIS CONTRACT** is made and entered into by and between the United States of America, acting in this matter by the Director of the US Fish and Wildlife Service, through the Regional Director of the Mountain-Prairie Region, (hereinafter referred to as the "Director"), and [Concessioner Name], an individual of, doing business as [Trade name], (hereinafter referred to as the "Concessioner"):

##### **[LIMITED LIABILITY COMPANY]**

**THIS CONTRACT** is made and entered into by and between the United States of America, acting in this matter by the Director of the US Fish and Wildlife Service, through the Regional Director of the Mountain-Prairie Region, (hereinafter referred to as the "Director"), and [Concessioner Name], a Limited Liability Company organized and existing under the laws of the State of [state name], (hereinafter referred to as the "Concessioner"):

##### **WITNESSETH:**

**THAT WHEREAS**, the National Elk Refuge is administered by the Director as a unit of the national wildlife refuge system to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans; and

**WHEREAS**, to accomplish these purposes, the Director has determined that certain visitor services are necessary and appropriate for the public use and enjoyment of the Refuge and should be provided for the public visiting the Refuge; and

**WHEREAS**, the Director desires the Concessioner to establish and operate these visitor services at reasonable rates under the supervision and regulation of the Director; and

**WHEREAS**, the Director desires the Concessioner to conduct these visitor services in a manner that demonstrates sound environmental management, stewardship, and leadership;

**NOW, THEREFORE**, pursuant to the authority contained in the Acts of the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee); the Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-3); the Refuge Revenue Sharing Act (16 U.S.C. 715s); Regulations on Concessions – General Provisions (50 CFR Part 25.61); and FWS Policy 630 FW 6 through 8.

## **SEC. 1. TERM OF CONTRACT**

This Concession Contract No. [REDACTED] (“Contract”) shall be effective as of [REDACTED], and shall be for the term of ten (10) years until its expiration on [REDACTED].

## **SEC. 2. DEFINITIONS**

The following terms used in this Contract will have the following meanings, which apply to both the singular and the plural forms of the defined terms:

(a) “Applicable Laws” means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws (e.g., 50 CFR 25.61 and FW Policy 630 FW 6 through 8 ), whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.

(b) “Refuge” means the property within the boundaries of the National Elk Refuge.

(c) “Best Management Practices” or “BMPs” are policies and practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this Contract. BMPs are expected to change from time to time as technology evolves with a goal of sustainability of the Concessioner's operations. Sustainability of operations refers to operations that have a restorative or net positive impact on the environment.

(d) “Concession Facilities” shall mean all Refuge lands assigned to the Concessioner under this Contract and all real property improvements assigned to the Concessioner under this Contract. The United States retains title and ownership to all Concession Facilities.

(e) “Days” shall mean calendar days.

(f) “Director” means the Director of the US Fish and Wildlife Service, acting on behalf of the Secretary of the Interior and the United States, and his duly authorized representatives.

(g) “Exhibit” or “Exhibits” shall mean the various exhibits, which are attached to this Contract, each of which is hereby made a part of this Contract.

(h) “Gross receipts” means the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this Contract as herein defined, commissions earned on contracts or

agreements with other persons or companies operating in the Refuge, and gross receipts earned from electronic media sales.

(i) "Percentage Payment" are fees based on the concessionaire's gross receipts for goods and services rendered. The minimal acceptable percentage of gross receipts is 5% for a major concession.

(j) "sleigh" means a sleigh or wagon that is intended for travel primarily on snow and has been authorized by the Refuge Manager to operate in the Refuge.

(k) "Refuge Manager" means the manager of the Refuge.

(l) "Transportation Event" means a sleigh ride transportation event is a group of 20 or fewer commercially guided individuals occupying a sleigh or wagon.

(m) "Visitor services" means the accommodations, facilities and services that the Concessioner is required and/or authorized to provide by Section 3(a) of this Contract.

### **SEC. 3. SERVICES AND OPERATIONS**

#### **(a) Required and Authorized Visitor Services**

During the term of this Contract, the Director requires the Concessioner to provide the following visitor services for the public within the Area:

Guided sleigh rides and associated shuttle trips to and from the Refuge visitor center and sleigh ride staging area.

#### **(b) Operation and Quality of Operation**

The Concessioner shall provide, operate and maintain the required and authorized visitor services and any related support facilities and services in accordance with this Contract to such an extent and in a manner considered satisfactory by the Director. Except for any such items that may be provided to the Concessioner by the Director, the Concessioner shall provide the plant, personnel, equipment, goods, and commodities necessary for providing, operating, and maintaining the visitor services in accordance with this Contract. The Concessioner's authority to provide visitor services under the terms of this Contract is non-exclusive.

#### **(c) Operating Plan**

The Director, acting through the Refuge Manager, shall establish and revise, as necessary, specific requirements for the operations of the Concessioner under this Contract in the form of an Operating Plan (including, without limitation, a risk management program, that must be adhered to by the Concessioner). The initial Operating Plan is attached to this Contract as Exhibit A. The Director in his discretion, after consultation with the Concessioner, may make reasonable modifications to the initial Operating Plan that are in furtherance of the purposes of this Contract and are not inconsistent with the terms and conditions of the main body of this Contract.

#### **(d) Services**

(1) The Director reserves the right to determine and control the nature, type and quality of the visitor services described in this Contract.

(2) All promotional material, regardless of media format (i.e. printed, electronic, broadcast media), provided to the public by the Concessioner in connection with the services provided under this Contract must be approved in writing by the Refuge Manager prior to use. All such material will identify the Concessioner as an authorized Concessioner of the US Fish and Wildlife Service, Department of the Interior.

#### **(e) Rates**

All rates and charges to the public by the Concessioner for visitor services shall be reasonable and appropriate for the type and quality of facilities and/or services required and/or authorized under this Contract. The Concessioner's rates and charges to the public must be approved by the Director in accordance with Applicable Laws and guidelines promulgated by the Director from time to time.

#### **(f) Impartiality as to Rates and Services**

(1) Subject to Section (f)(2) and (f)(3), in providing visitor services, the Concessioner must require its employees to observe a strict impartiality as to rates and services in all circumstances. The Concessioner shall comply with all Applicable Laws relating to nondiscrimination in providing visitor services to the public including, without limitation, those set forth in Exhibit B.

(2) The Concessioner may grant complimentary or reduced rates under such circumstances as are customary in businesses of the character conducted under this Contract. However, the Director reserves the right to review and modify the Concessioner's complimentary or reduced rate policies and practices as part of its rate approval process.

(3) The Concessioner will provide Federal employees conducting official business reduced rates for specified services necessary for conducting official business in accordance with guidelines established by the Director. Complimentary or reduced rates and charges shall otherwise not be provided to Federal employees by the Concessioner except to the extent that they are equally available to the general public.

### **SEC. 4. CONCESSIONER PERSONNEL**

#### **(a) Employees**

(1) The Concessioner shall provide all personnel necessary to provide the visitor services required and authorized by this Contract.

(2) The Concessioner shall comply with all Applicable Laws relating to employment and employment conditions, including, without limitation, those set forth in Exhibit B.

(3) The Concessioner shall ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public. The Concessioner shall have its employees who come in direct contact with the public, so far as practicable, wear a uniform or badge by which they may be identified as the employees of the Concessioner.

(4) The Concessioner shall establish pre-employment screening, hiring, training, employment, termination and other policies and procedures for the purpose of providing visitor services through its employees in an efficient and effective manner and for the purpose of maintaining a healthful, law abiding, and safe working environment for its employees. The Concessioner shall conduct appropriate

background reviews of applicants to whom an offer for employment may be extended to assure that they conform to the hiring policies established by the Concessioner.

(5) The Concessioner shall ensure that its employees are provided the training needed to provide quality visitor services and to maintain up-to-date job skills.

(6) The Concessioner shall review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Director to be inconsistent with the proper administration of the Refuge and enjoyment and protection of visitors and shall take such actions as are necessary to correct the situation.

(7) The Concessioner shall maintain, to the greatest extent possible, a drug free environment, both in the workplace and in any Concessioner employee housing, within the Refuge.

(8) The Concessioner shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and in the Refuge, and specifying the actions that will be taken against employees for violating this prohibition.

(9) The Concessioner shall take appropriate personnel action, up to and including termination or requiring satisfactory participation in a drug abuse or rehabilitation program which is approved by a Federal, State, or local health, law enforcement or other appropriate agency, for any employee that is found to be in violation of the prohibition on the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

## **SEC. 5. LEGAL, REGULATORY, AND POLICY COMPLIANCE**

### **(a) Legal, Regulatory and Policy Compliance**

This Contract, operations thereunder by the Concessioner and the administration of it by the Director, shall be subject to all Applicable Laws. The Concessioner must comply with all Applicable Laws in fulfilling its obligations under this Contract at the Concessioner's sole cost and expense. Certain Applicable Laws governing protection of the environment are further described in this Contract. Certain Applicable Laws relating to nondiscrimination in employment and providing accessible facilities and services to the public are further described in this Contract.

### **(b) Notice**

The Concessioner shall give the Director immediate written notice of any violation of Applicable Laws by the Concessioner, including its employees, agents or contractors, and, at its sole cost and expense, must promptly rectify any such violation.

### **(c) How and Where To Send Notice**

All notices required by this Contract shall be in writing and shall be served on the parties at the following addresses. The mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service. Notices sent to the Director shall be sent to the following address:



Refuge Manager  
National Elk Refuge  
P.O. Box 510  
Jackson, WY 83001

Notices sent to the Concessioner shall be sent to the following address:

[Concessioner name]  
[Address]  
[Attention:]

## **SEC. 6. ENVIRONMENTAL AND CULTURAL PROTECTION**

### **(a) Environmental Management Objectives**

The Concessioner shall meet the following environmental management objectives (hereinafter "Environmental Management Objectives") in the conduct of its operations under this Contract:

- (1) The Concessioner, including its employees, agents and contractors, shall comply with all Applicable Laws pertaining to the protection of human health and the environment.
- (2) The Concessioner shall incorporate Best Management Practices (BMPs) in its operation, construction, maintenance, acquisition, provision of visitor services, and other activities under this Contract.

### **(b) Weed and Pest Management**

The Concessioner shall be responsible for managing weeds, harmful insects, rats, mice and other pests on Concession Facilities assigned to the Concessioner under this Contract. All such weed and pest management activities shall be in accordance with Applicable Laws and any guidelines established by the Director.

### **(c) Protection of Cultural and Archeological Resources**

The Concessioner shall ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner, including the Concessioner's employees, except in accordance with Applicable Laws, and only with the prior approval of the Director. Discoveries of any archeological resources by the Concessioner shall be promptly reported to the Director. The Concessioner shall cease work or other disturbance which may impact any protected site or archeological resource until the Director grants approval, upon such terms and conditions as the Director deems necessary, to continue such work or other disturbance.

## **SEC. 7. INTERPRETATION OF AREA RESOURCES**

### **(a) Concessioner Obligations**

- (1) The Concessioner shall provide all visitor services in a manner that is consistent with and supportive of the interpretive themes, goals and objectives of the Refuge as reflected in Refuge planning

### **(b) Refuge Manager Review of Content**

The Concessioner must submit the proposed content of any interpretive programs, exhibits, displays or materials, regardless of media format (i.e. printed, electronic, or broadcast media), to the Director for review and approval prior to offering such programs, exhibits, displays or materials to Refuge visitors.

## **SEC. 8. CONCESSION FACILITIES USED IN OPERATION BY THE CONCESSIONER**

### **(a) Assignment of Concession Facilities**

(1) The Director hereby assigns Concession Facilities as described in Exhibit C to the Concessioner for the purposes of this Contract. The Concessioner shall not be authorized to construct any Capital Improvements (as defined in Applicable Laws) upon Refuge lands.

(2) The Director shall from time to time amend Exhibit C to reflect changes in Concession Facilities assigned to the Concessioner.

### **(b) Concession Facilities Withdrawals**

The Director may withdraw all or portions of these Concession Facilities assignments at any time during the term of this Contract if:

(1) The withdrawal is necessary for the purpose of conserving, preserving or protecting Refuge resources or visitor enjoyment or safety;

(2) The operations utilizing the assigned Concession Facilities have been terminated or suspended by the Director; or

(3) Land or real property improvements assigned to the Concessioner are no longer necessary for the concession operation.

### **(c) Effect of Withdrawal**

Any permanent withdrawal of assigned Concession Facilities which the Director or the Concessioner considers to be essential for the Concessioner to provide the visitor services required by this Contract will be treated as a termination of this Contract pursuant to Section 15. No compensation is due the Concessioner in these circumstances.

### **(d) Right of Entry**

The Director shall have the right at any time to enter upon or into the Concession Facilities assigned to the Concessioner under this Contract for any purpose he may deem necessary for the administration of the Area.

### **(e) Personal Property**

(1) Personal Property Provided by the Concessioner. The Concessioner shall provide all personal property, including without limitation removable equipment, furniture and goods, necessary for its operations under this Contract, unless such personal property is provided by the Director as set forth in subsection (e)(2).

(2) Personal Property Provided by the Government. The Director may provide certain items of government personal property, including without limitation removable equipment, furniture and goods,

for the Concessioner's use in the performance of this Contract. The Director hereby assigns government personal property listed in Exhibit D to the Concessioner as of the effective date of this Contract. This Exhibit D will be modified from time to time by the Director as items may be withdrawn or additional items added. The Concessioner shall be accountable to the Director for the government personal property assigned to it and shall be responsible for maintaining the property as necessary to keep it in good and operable condition. If the property ceases to be serviceable, it shall be returned to the Director for disposition.

**(f) Condition of Concession Facilities**

The Concessioner has inspected the Concession Facilities and any assigned government personal property, is thoroughly acquainted with their condition, and accepts the Concession Facilities, and any assigned government personal property, "as is."

**(g) Utilities**

(1) The Director may provide utilities to the Concessioner for use in connection with the operations required or authorized hereunder when available and at rates to be determined in accordance with Applicable Laws.

(2) If the Director does not provide utilities to the Concessioner, the Concessioner shall, with the written approval of the Director and under any requirements that the Director shall prescribe, secure necessary utilities at its own expense from sources outside the Refuge.

**SEC. 9. MAINTENANCE**

**(a) Maintenance Obligation**

The Concessioner shall be solely responsible for maintenance, repairs, housekeeping, and groundskeeping for all Concession Facilities to the satisfaction of the Director.

**(b) Maintenance Plan remove**

For these purposes, the Director, acting through the Refuge Manager, shall undertake appropriate inspections, and shall establish and revise, as necessary, a Maintenance Plan consisting of specific maintenance requirements which shall be adhered to by the Concessioner. The initial Maintenance Plan is set forth in Exhibit E. The Director in his discretion may make reasonable modifications to the Maintenance Plan from time to time after consultation with the Concessioner. Such modifications shall be in furtherance of the purposes of this Contract and shall not be inconsistent with the terms and conditions of the main body of this Contract.

**SEC. 10. FEES**

**(a) Percentage Payment**

(1) For the term of this Contract, the Concessioner shall pay to the Director for the privileges granted under this Contract a percentage payment equal to \_\_\_ percent (\_%) of the Concessioner's annual gross receipts.

(2) Neither the Concessioner nor the Director shall have a right to an adjustment of the fees except as provided below. The Concessioner has no right to waiver of the fee under any circumstances.

**(b) Payments Due**

(1) The percentage payment shall be due on a monthly basis at the end of each month that the Concessioner operates and shall be paid by the Concessioner in such a manner that the Director shall receive payment within fifteen (15) days after the last day of each month that the Concessioner operates. This monthly payment shall include the percentage payment equal to the specified percentage of gross receipts for the preceding month.

(3) All percentage payments shall be delivered to the Refuge Manager and deposited electronically by the Service in accordance with Applicable Laws.

**(c) Interest**

An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed beyond the fifteen (15) day period provided for above. The percent of interest charged will be based on the current value of funds to the United States Treasury as published quarterly in the Treasury Fiscal Requirements Manual. The Director may also impose penalties for late payment to the extent authorized by Applicable Law.

**(d) Adjustment of Franchise Fee**

(1) The Concessioner or the Director may request, in the event that either considers that extraordinary, unanticipated changes have occurred after the effective date of this Contract, a reconsideration and possible subsequent adjustment of the franchise fee established in this section. For the purposes of this section, the phrase "extraordinary, unanticipated changes" shall mean extraordinary, unanticipated changes from the conditions existing or reasonably anticipated before the effective date of this Contract which have or will significantly affect the probable value of the privileges granted to the Concessioner by this Contract. For the purposes of this section, the phrase "probable value" means a reasonable opportunity for net profit in relation to capital invested and the obligations of this Contract.

(2) The Concessioner or the Director must make a request for a reconsideration by mailing, within sixty (60) days from the date that the party becomes aware, or should have become aware, of the possible extraordinary, unanticipated changes, a written notice to the other party that includes a description of the possible extraordinary, unanticipated changes and why the party believes they have affected or will significantly affect the probable value of the privileges granted by this Contract.

(3) If the Concessioner and the Director agree that extraordinary, unanticipated changes have occurred, the Concessioner and the Director will undertake good faith negotiations as to an appropriate adjustment of the franchise fee.

(8) Any adjustment to the franchise fee resulting from this section shall be prospective only.

(9) Any adjustment to the franchise fee will be embodied in an amendment to this Contract.

(10) During the pendency of the process described in this section, the Concessioner shall continue to make the established franchise fee payments required by this Contract.

**SEC. 11. INDEMNIFICATION AND INSURANCE**

**(a) Indemnification**

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys' fees and experts' fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way connected with or arising out of the activities of the Concessioner, its employees, agents or contractors under this Contract. This indemnification shall survive the termination or expiration of this Contract.

**(b) Insurance in General**

(1) The Concessioner shall obtain and maintain during the entire term of this Contract at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of this Contract as determined by the Director. The initial insurance requirements are set forth below and in Exhibit F. Any changed or additional requirements that the Director determines necessary must be reasonable and consistent with the types and coverage amounts of insurance a prudent businessperson would purchase in similar circumstances. The Director shall approve the types and amounts of insurance coverage purchased by the Concessioner.

(2) The Director will not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by the Concessioner proves to be inadequate or otherwise insufficient for any reason whatsoever.

(3) At the request of the Director, the Concessioner shall at the time insurance is first purchased and annually thereafter, provide the Director with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section.

The Concessioner shall provide the Director immediate written notice of any material change in the Concessioner's insurance program hereunder, including without limitation, cancellation of any required insurance coverages.

**(c) Commercial Public Liability**

(1) The Concessioner shall provide commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the Concessioner or its employees, agents or contractors, in carrying out the activities and operations required and/or authorized under this Contract.

(2) This insurance shall be in the amount commensurate with the degree of risk and the scope and size of the activities required and/or authorized under this Contract, as more specifically set forth in Exhibit F. Furthermore, the commercial general liability package shall provide no less than the coverages and limits described in Exhibit F.

(3) All liability policies shall specify that the insurance company shall have no right of subrogation against the United States of America and shall provide that the United States of America is named an additional insured.

(4) From time to time, as conditions in the insurance industry warrant, the Director may modify Exhibit F to revise the minimum required limits or to require additional types of insurance, provided that any

additional requirements must be reasonable and consistent with the types of insurance a prudent businessperson would purchase in similar circumstances.

**(d) Property Insurance**

(1) In the event of damage or destruction, the Concessioner will repair or replace those Concession Facilities and personal property utilized by the Concessioner in the performance of the Concessioner's obligations under this Contract.

(2) For this purpose, the Concessioner shall provide fire and extended insurance coverage on Concession Facilities for all or part of their replacement cost as specified in Exhibit F in amounts no less than the Director may require during the term of the Contract. The minimum values currently in effect are set forth in Exhibit F.

(3) Commercial property insurance shall provide for the Concessioner and the United States of America to be named insured as their interests may appear.

(4) In the event of loss, the Concessioner shall use all proceeds of such insurance to repair, rebuild, restore or replace Concession Facilities and/or personal property utilized in the Concessioner's operations under this Contract, as directed by the Director. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of Section 12 shall apply to such insurance proceeds. The Concessioner shall not be relieved of its obligations under subsection (d)(1) because insurance proceeds are not sufficient to repair or replace damaged or destroyed property.

(5) Insurance policies that cover Concession Facilities shall contain a loss payable clause approved by the Director which requires insurance proceeds to be paid directly to the Concessioner without requiring endorsement by the United States, unless the damage exceeds \$1,000,000. The use of insurance proceeds for repair or replacement of Concession Facilities will not alter their character as properties of the United States and, notwithstanding any provision of this Contract to the contrary, the Concessioner shall gain no ownership, Leasehold Surrender Interest or other compensable interest as a result of the use of these insurance proceeds.

(6) The commercial property package shall include the coverages and amounts described in Exhibit F.

**SEC. 12. BONDS AND LIENS**

**(a) Bonds**

The Director may require the Concessioner to furnish appropriate forms of bonds in amounts reasonable in the circumstances and acceptable to the Director, in order to ensure faithful performance of the Concessioner's obligations under this Contract.

**(b) Lien**

As additional security for the faithful performance by the Concessioner of its obligations under this Contract, and the payment to the Government of all damages or claims that may result from the Concessioner's failure to observe any such obligations, the Government shall have at all times the first lien on all assets of the Concessioner within the Area, including, but not limited to, all personal property of the Concessioner used in performance of the Contract hereunder within the Area.

## **SEC. 13. ACCOUNTING RECORDS AND REPORTS**

### **(a) Accounting System**

(1) The Concessioner shall maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system shall be capable of providing the information required by this Contract, including but not limited to the Concessioner's repair and maintenance obligations.

(2) In computing net profits for any purposes of this Contract, the Concessioner shall keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this Contract by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

### **(b) Annual Financial Report**

(1) The Concessioner shall submit annually as soon as possible but not later than one hundred twenty (120) days after the last day of its fiscal year a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").

(2) If the annual gross receipts of the Concessioner are in excess of \$1,000,000, the financial statements shall be audited by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(3) If annual gross receipts are between \$500,000, and \$1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) If annual gross receipts are less than \$500,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.

## **SEC. 14. OTHER REPORTING REQUIREMENTS**

The following describes certain other reports required under this Contract:

### **(a) Insurance Certification**

As specified in Section 11, the Concessioner shall, at the request of the Director, provide the Director with a Certificate of Insurance for all insurance coverages related to its operations under this Contract. The Concessioner shall give the Director immediate written notice of any material change in its insurance program, including without limitation, any cancellation of required insurance coverages.

### **(c) Miscellaneous Reports and Data**

The Director from time to time may require the Concessioner to submit other reports and data regarding its performance under the Contract or otherwise, including, but not limited to, operational information.

## **SEC. 15. SUSPENSION, TERMINATION, OR EXPIRATION**

### **(a) Suspension**

The Director may temporarily suspend operations under this Contract in whole or in part in order to protect Refuge visitors or to protect, conserve and preserve Refuge resources. No compensation of any nature shall be due the Concessioner by the Director in the event of a suspension of operations, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the suspension.

### **(b) Termination**

(1) The Director may terminate this Contract at any time in order to protect Refuge visitors, protect, conserve, and preserve Area resources, or to limit visitor services in the Refuge to those that continue to be necessary and appropriate.

(2) The Director may terminate this Contract if the Director determines that the Concessioner has materially breached any requirement of this Contract, including, but not limited to, the requirement to maintain and operate visitor services to the satisfaction of the Director, the requirement to provide only those visitor services required or authorized by the Director pursuant to this Contract, the requirement to pay the established franchise fee, the requirement to prepare and comply with an Environmental Management Program and the requirement to comply with Applicable Laws.

(3) In the event of a breach of the Contract, the Director will provide the Concessioner an opportunity to cure by providing written notice to the Concessioner of the breach. In the event of a monetary breach, the Director will give the Concessioner a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Director may terminate the Contract for default. In the event of a nonmonetary breach, if the Director considers that the nature of the breach so permits, the Director will give the Concessioner thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Director, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Director may terminate the Contract for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature shall be grounds for termination for default without a cure period. In the event of a breach of any nature, the Director may suspend the Concessioner's operations as appropriate in accordance with Section 15(a).

(4) The Director may terminate this Contract upon the filing or the execution of a petition in bankruptcy by or against the Concessioner, a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, an assignment by the Concessioner for the benefit of creditors, a petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. The Director may terminate this Contract if the Director determines that the Concessioner is unable to perform the terms of Contract due to bankruptcy or insolvency.

(5) Termination of this Contract for any reason shall be by written notice to the Concessioner.

### **(c) Notice of Bankruptcy or Insolvency**



The Concessioner must give the Director immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, the Service considers that this Contract is not a lease but an executory contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 365.

**(d) Requirements in the Event of Termination or Expiration**

(1) In the event of termination of this Contract for any reason or expiration of this Contract, no compensation of any nature shall be due the Concessioner in the event of a termination or expiration of this Contract, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination.

(2) Upon termination of this Contract for any reason, or upon its expiration, and except as otherwise provided in this section, the Concessioner shall, at the Concessioner's expense, promptly vacate the Refuge, remove all of the Concessioner's personal property, repair any injury occasioned by installation or removal of such property, and ensure that Concession Facilities are in at least as good condition as they were at the beginning of the term of this Contract, reasonable wear and tear excepted. The removal of such personal property must occur within thirty (30) days after the termination of this Contract for any reason or its expiration (unless the Director in particular circumstances requires immediate removal). No compensation is due the Concessioner from the Director or a successor concessioner for the Concessioner's personal property used in operations under this Contract. However, the Director or a successor concessioner may purchase such personal property from the Concessioner subject to mutually agreed upon terms. Personal property not removed from the Area by the Concessioner in accordance with the terms of this Contract shall be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner, in accordance with Applicable Laws. Any cost or expense incurred by the Director as a result of such disposition may be offset from any amounts owed to the Concessioner by the Director to the extent consistent with Applicable Laws.

(3) To avoid interruption of services to the public upon termination of this Contract for any reason, or upon its expiration, the Concessioner, upon the request of the Director, shall consent to the use by another operator of the Concessioner's personal property, excluding inventories if any, not including current or intangible assets, for a period of time not to exceed one (1) year from the date of such termination or expiration. The other operator shall pay the Concessioner an annual fee for use of such property, prorated for the period of use, in the amount of the annual depreciation of such property, plus a return on the book value of such property equal to the prime lending rate, as published by the Federal Reserve System Board of Governors, effective on the date the operator assumes managerial and operational responsibilities. In such circumstances, the method of depreciation applied shall be either straight line depreciation or depreciation as shown on the Concessioner's Federal income tax return, whichever is less. To avoid interruption of services to the public upon termination of this Contract for

any reason or its expiration, the Concessioner shall, if requested by the Director, sell its existing inventory to another operator at the purchase price as shown on applicable invoices.

(4) Prior to and upon the expiration or termination of this Contract for any reason, and, in the event that the Concessioner is not to continue the operations authorized under this Contract after its expiration or termination, the Concessioner shall comply with all applicable requirements of Exhibit G to this Contract, "Transition to New Concessioner." This section and Exhibit G shall survive the expiration or termination of this Contract.

#### **SEC. 16. ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS**

(a) This Contract is subject to the requirements of Applicable Laws and policy, including, without limitation, 50 CFR 25.61 and 630 FW 6 through 8, with respect to proposed assignments and encumbrances, as those terms are defined by Applicable Laws. Failure by the Concessioner to comply with Applicable Laws is a material breach of this Contract for which the Director may terminate this Contract for default. The Director shall not be obliged to recognize any right of any person or entity to an interest in this Contract of any nature or operating rights under this Contract, if obtained in violation of Applicable Laws.

(b) The Concessioner shall advise any person(s) or entity proposing to enter into a transaction which may be subject to Applicable Laws and policy, including without limitation, 50 CFR 25.61 and 630 FW 6 through 8 of the requirements of Applicable Law and this Contract.

#### **SEC. 17. GENERAL PROVISIONS**

(a) The Director and Comptroller General of the United States, or any of their duly authorized representatives, shall have access to the records of the Concessioner as provided by the terms of Applicable Laws.

(b) All information required to be submitted to the Director by the Concessioner pursuant to this Contract is subject to public release by the Director to the extent provided by Applicable Laws.

(c) The Concessioner is not entitled to be awarded or to have negotiating rights to any Federal procurement or service contract by virtue of any provision of this Contract.

(d) Any and all taxes or assessments of any nature that may be lawfully imposed by any State or its political subdivisions upon the property or business of the Concessioner shall be paid promptly by the Concessioner.

(e) No member of, or delegate to, Congress or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefit that may arise from this Contract but this restriction shall not be construed to extend to this Contract if made with a corporation or company for its general benefit.

(f) This Contract is subject to the provisions of 2 C.F.R. Part 1400, as applicable, concerning non-procurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.

(g) This Contract contains the sole and entire agreement of the parties. No oral representations of any nature form the basis of or may amend this Contract. This Contract may be extended, renewed or amended only when agreed to in writing by the Director and the Concessioner.

(h) This Contract does not grant rights or benefits of any nature to any third party.

(i) The invalidity of a specific provision of this Contract shall not affect the validity of the remaining provisions of this Contract.

(k) Waiver by the Director or the Concessioner of any breach of any of the terms of this Contract by the other party shall not be deemed to be a waiver or elimination of such term, nor of any subsequent breach of the same type, nor of any other term of the Contract. The subsequent acceptance of any payment of money or other performance required by this Contract shall not be deemed to be a waiver of any preceding breach of any term of the Contract.

(l) Claims against the Director (to the extent subject to 28 U.S.C. 2514) arising from this Contract shall be forfeited to the Director by any person who corruptly practices or attempts to practice any fraud against the United States in the proof, statement, establishment, or allowance thereof within the meaning of 28 U.S.C. 2514.

(m) Nothing contained in this Contract shall be construed as binding the Director to expend, in any fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year or administratively allocated for the subject matter of this Contract, or to involve the Director in any contract or other obligation for the future expenditure of money in excess of such appropriations.

In Witness Whereof, the duly authorized representatives of the parties have executed this Contract on the dates shown below.

CONCESSIONER UNITED STATES OF AMERICA

By \_\_\_\_\_ By \_\_\_\_\_

[Name of signer] [Name of signer]

[Title of signer] Director, US Fish and Wildlife Service

[Company name]

DATE: \_\_\_\_\_, 20\_\_ DATE: \_\_\_\_\_, 20\_\_

[Corporation]

ATTEST:

By \_\_\_\_\_

[Name of signer]

[Title of signer]

DATE: \_\_\_\_\_, 20\_\_

[Sole Proprietorship/Partnership/Limited Liability Company]

WITNESSES:

NAME \_\_\_\_\_ NAME \_\_\_\_\_

[Name of signer] [Name of signer]

ADDRESS \_\_\_\_\_ ADDRESS \_\_\_\_\_

DATE: \_\_\_\_\_, 20\_\_ DATE: \_\_\_\_\_, 20\_\_

# **EXHIBIT A**

## **Operating Plan**

### **1) INTRODUCTION**

This Operating Plan between [Concessioner Name] (hereinafter referred to as the “Concessioner”) and the US Fish and Wildlife Service (hereinafter referred to as the “Service”) describes specific operating responsibilities of the Concessioner and the Service with regard to those lands and facilities within the National Elk Refuge (hereinafter referred to as the “Refuge”) that are assigned to the Concessioner for the purposes authorized by the Contract.

In the event of any conflict between the terms of the Contract and this Operating Plan, the terms of the Contract, including its designations and amendments, will prevail.

This plan will be reviewed annually by the Refuge Manager in consultation with the Concessioner and revised as determined necessary by the Refuge Manager. Any revisions shall not be inconsistent with the main body of this Contract. Any revisions must be reasonable and in furtherance of the purposes of the Contract.

The Concessioner is authorized by a Concession Contract with the Service to provide guided, interpretive sleigh rides within the Refuge

This Operating Plan will serve as a supplement (Exhibit B) to the Concession Contract XXXX between «Business» (herein referred to as the “Concessioner”) and the Service.

### **2) MANAGEMENT**

#### **A) Concessioner**

(1) The Concessioner will employ a manager responsible for carrying out the policies and directives of the Service as well as those of the Concessioner’s operation. This individual will be the primary contact to act as liaison with the Service in all administrative and operational matters. The manager’s name, address, telephone number and e-mail address will be submitted to the Concessions Management Division by October 1 each year throughout the term of the contract.

(2) The Concessioner will employ a staff with the expertise to operate all services required and authorized by this Contract.

#### **B) US Fish and Wildlife Service**

(1) The Refuge Manager manages the total Refuge operations and carries out the policies and directives of the Service, including the management of Concession Contracts. The Refuge Manager, with assistance from the Visitor Services Manager, has responsibility for approving rates and services, evaluating operations, and generally administering the Contract. The Visitor Services Manager will act as the liaison between the Concessioner and the Service.

(2) The Refuge Law Enforcement Officer will provide a direct line of communication to the Concessioner on matters related to law enforcement, search and rescue, emergency medical services, and resource protection on the Refuge.

### **3) GENERAL PROVISIONS**

#### **A) Schedule of Operations**

- (1) The Concessioner may operate sleigh rides during the period of mid-December (beginning the day after the Refuge elk hunt ends, variable) through early-April (weather dependent, sleigh rides cease once spring conditions prevail) each year of the Contract.
- (2) Operation of horse-drawn sleigh/wagon rides will be daily from 10:00 a.m. to 5:00 p.m.
- (3) The Concessioner will close on Christmas Day (December 25<sup>th</sup>).
- (4) The Service reserves the right to change hours to meet visitor needs and will notify the Concessioner in writing at least 30 days before any change in hours of operation occurs.
- (5) Any proposed tours to be conducted outside of these hours of operation require notification to the refuge Visitor Services Manager and Refuge Law Enforcement Officer 24 hours in advance of any such proposed tour.
- (6) The Service may require the Concessioner to delay or cancel trips into the Area if the Service determines that conditions are unsafe or unsuitable for sleigh ride operations. The concessioner will obey any and all closures and only resume operations when it is cleared by the Service.

#### **B) National Elk Refuge Authorized Areas of Operation**

The following routes and areas are designated for sleigh ride operations. Unless otherwise stated, the hours of operation are from 7:00 a.m. to 7:00 p.m. daily.

- (1) Shop entrance road for access to livestock facilities and sleigh/wagon storage area.
- (2) Sleigh ride staging area and entrance gate.
- (3) A portion of the visitor center parking lot for ticket kiosk as designated annually by the Service.
- (4) Visitor center parking area drive through lanes for shuttle bus operations as designated annually by the Service.
- (5) Sleigh rides will take place within the Area of Operation as identified in Figure 1 of this Prospectus. The specific sleigh ride route(s) within this location will be designated annually by the Service.

#### **C) Facilities and Services**

The Concessioner shall provide all facilities, equipment, materials, labor, supervision and services necessary to fulfill Concessioner's obligations under the Contract as follows:

(1) Guided sleigh rides and associated shuttle trips to and from the Refuge visitor center and sleigh ride staging area.

#### **4) ADMINISTRATIVE REQUIREMENTS**

##### **A) Possession of Firearms**

(1) Persons possessing, transporting, or carrying firearms on National Wildlife Refuge System lands must comply with all provisions of federal, State, and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (50 CFR 27.42 and specific Refuge regulations in 50 CFR Part 32).

(2) The Concessioner is responsible for providing this information to its visitors.

(3) Concessioner employees must not possess firearms while on duty. The Refuge Manager, in his or her sole discretion, may grant exceptions to this prohibition upon consideration of a written request from the Concessioner's general manager with a thorough explanation of the basis of the request. The Refuge Manager will provide a written response to the Concessioner.

##### **B) Rates**

(1) The Concessioner must submit written rate requests at least 45 days prior to the anticipated implementation date. The Service will process requests for rate changes as expeditiously as possible based on applicable guidelines. Rate requests must include the following:

(2) The Service will review the rate request to ensure that the Concessioner's rates and charges to the public are reasonable and justified. All rates charged to visitors must not exceed those approved by the Refuge Manager and will be verified against the specific service, quality, price or other criteria.

(3) The Concessioner will provide rates for providing guided interpretive sleigh ride tours.

(4) Authorized Rates must be easily available for visitor review whether on a website or hard copy advertising.

(5) Receipts for services provided must be given when requested.

##### **C) Reports / Reporting Requirements**

(1) The Concessioner must submit a Monthly Use Report to summarize daily visitor use information. The Concessioner must transmit the report so that the Visitor Services Manager receives it no later than the 4th day of the month following operations. The

Concessioner must transmit monthly use reports electronically. This report is only necessary for those months that the Concessioner is operating.

(2) The Concessioner must submit a list of guides and the expiration dates of their First Aid and CPR certifications at least 10 days prior to the guide's first trip. Both certifications must be current and valid in order for a guide to lead a trip. There is no grace period for guides with an expired First-Aid or CPR certification. The Concessioner must update the list as appropriate throughout the operating season. Guide First-Aid and CPR cards should be in the guide's possession while operating in the National Elk Refuge.

(3) The Concessioner must report the following immediately to the Refuge Law Enforcement Officer

(a) Fatalities

(b) Employee or visitor injuries regardless of the extent of the injury

(c) All motor vehicle accidents regardless of the amount or extent of damage

(d) All incidents adversely affecting the Area's resources

(e) Any known or suspected violation of the law

(5) Guides are encouraged to report poor road or weather conditions.

#### **D) Acknowledgement of Risk Form**

The Concessioner may require clients to sign an acknowledgment of risk form. The Concessioner must submit its proposed acknowledgment of risk form to the Visitor Services Manager for approval. The Concessioner must not use the form until after the Service has approved it. The form is an acknowledgment of the inherent risks associated with this activity, not a waiver of liability.

#### **E) Advertising**

(1) The Concessioner must submit all promotional material for services supplied in the Area prior to publication, distribution, or broadcast to the Visitor Services Manager at least 14 days prior to the proposed use of such material. The Concessioner must not use such information until after the Service has provided written approval of it. All advertisements must include a statement that the Concessioner is authorized by the US Fish and Wildlife Service to serve the public on the Refuge.

(2) To reduce confusion with visitors and the public, the Concessioner will not use the Refuge name (National Elk Refuge) as the name of the concession. The Concessioner may reference that they operate on the National Elk Refuge.

#### **F) Staffing and Employment**

(1) The Concessioner must hire a sufficient number of employees to ensure satisfactory services.



- (2) All employees dealing with the general public must wear a visible name tag or have the company name embroidered on outerwear identifying the Concessioner.
- (3) The Concessioner must train its employees so they are sufficiently familiar with equipment and conditions to ensure a safe and enjoyable experience for Refuge visitors.
- (4) The Concessioner represents that they are knowledgeable in the proper and humane care and treatment of horses, and that all precautions shall be taken to ensure proper treatment by the Concessioner and their employees.
- (5) Employees of the Concessioner must provide friendly, helpful service and be capable and willing to answer questions and provide visitor assistance. Employees must demonstrate a friendly, helpful attitude toward their clients, other visitors, and Service employees.
- (6) Without the prior written approval of the Refuge Manager, the Concessioner must not employ the spouse or children of Refuge employees.
- (7) The Concessioner must provide appropriate job training to each employee prior to duty assignments and working with the public, including employee orientation for all new employees and informing employees of Service regulations and requirements that affect their employment and activities while working in the Refuge. Prior to guiding clients, a trainee must accompany an experienced guide into the Refuge on at least three commercial trips within the Area.

#### **G) Interpretive Services**

- (1) The Concessioner must provide interpretive skills training for all employees, who provide interpretive, informational, and safety orientation information and/or services to visitors. The Concessioner must work closely with the Service's interpretive staff to prepare and present effective interpretive information. The Service will monitor the quality of the Concessioner's interpretive services to ensure appropriateness and accuracy through the Service's evaluation program.
- (2) The Refuge Visitor Services Manager will set primary educational objectives and will provide these themes to the Concessioner at the Contract's onset. The Concessioner will incorporate the major themes the Visitor Services Manager sets in all sleigh rides.
- (3) Sleigh ride presentations will focus on providing information content, as approved by the Visitor Services Manager, free of Concessioner and guide bias, opinion or comment. Failure to adhere to this service may result in revocation of the contract by the Refuge Manager.
- (4) The Concessioner must ensure that its employees convey their knowledge of the Area's resources (geology, ecology, wildlife, etc.) and history using appropriate interpretive techniques.

(5) The Concessioner must provide a wide array of methods for conveying interpretive messages to visitors on Refuge-related themes and topics such as resource protection, appreciation of Refuge values, and Service goals.

#### **H) Service Monitoring**

(1) Service personnel shall monitor sleigh ride educational talks periodically for compliance to Refuge standards. The Concessioner will provide space in the sleigh or wagon for monitoring personnel at no cost to the Service, with 24 hours advance notice from the Service.

(2) The Service will evaluate the Concessioner's operations and equipment on an annual basis to ensure public health, safety, and satisfactory operations. The Service also will monitor the Concessioner annually on compliance with the requirements of the Contract, including provisions aimed at protecting resources, obtaining insurance, reporting requirements, and timely fee payments.

(3) The Concessioner must be responsive to dates assigned by the Service for correction of deficiencies.

#### **I) Complaints**

The Service will send complaints regarding the Concessioner's services to the Concessioner for investigation and response in a timely manner. The Concessioner must provide a copy of its response to the Visitor Services Manager. The Service will forward a copy of its response to the Concessioner.

#### **J) Contract Compliance**

(1) The Concessioner and its employees must comply with all applicable laws, regulations, and with the terms and conditions of the Contract and this Operating Plan.

(2) Failure to provide the required services during one operating season may result in termination of the Contract.

(3) Serious or repeated violations or noncompliance with the terms of the Contract or this Plan may result in termination of the Contract.

(4) Failure to submit required documentation in a timely manner will result in an unsatisfactory rating and may result in termination of the Contract.

#### **(K) Risk Management**

(1) In order to provide for the safety of visitors and staff the concessioner will cease when temperatures reach or fall below 0 degrees Fahrenheit. Drivers and guides must ensure that no one is exposed to an inherent or perceived risk based on extreme temperatures or weather.

(2) Drivers and guides must ensure that no one is exposed to an inherent or perceived risk based on actions taken by them, a guest, or another company. It is the responsibility of the concessioner and its employees to ensure that no one is putting guests or anyone

else at risk of injury or causing damage or harm to Refuge resources. This would include, but not be limited to: entering a closed area or an area posted as unsafe or encouraging guests to “slide” down hillsides or jump into roadside drifts. These activities will be noted in the concessioner’s operational evaluations, which could result in a less than satisfactory annual overall evaluation.

(3) All guides and drivers will ensure the clients’ safety and minimize risk to visitors by limiting standing inside the sleighs or wagons to only those instances when the sleigh or wagon is stopped and there is no perceived concern or risk to those who are out of their designated seat.

(4) Concessioners must not allow clients to use or possess alcoholic beverages during their sleigh ride experience, including shuttle operations.

(5) Concessioners must not allow their employees to operate sleighs or wagons while under the influence of alcohol, drugs, or medication that may impair their judgment or reactions.

(6) As a minimum, a basic first aid kit must be available at the sleigh ride staging area.

(7) All guides must have at least current Standard First-Aid certification and have completed a CPR course with a current certificate. A guide cannot lead a trip with expired First-Aid and/or CPR certification.

(8) The Concessioner must ensure that equipment complies with the requirements of the Contract and applicable regulations. The Service will perform inspections on an intermittent, unannounced basis.

#### **L) Sanitation**

(1) The Concessioner will provide two portable toilets at the sleigh ride staging area for employees and the sleigh ride guests. At a minimum one portable toilet will be accessible. Toilet services may be contracted at the expense of the Concessioner.

(2) The Concessioner is responsible for ensuring proper cleaning and sanitation of the portable toilets.

#### **M) Operations**

(1) Employee Performance: The Concessioner must provide employees with an active training program for the development of the necessary skills and techniques to provide visitors with safe, enjoyable experiences. This training must stress work performance and also include service presentation, cleanliness, employee attitudes, and Refuge philosophy and policy. Performance should be indicative of good training.

(2) Employee Attitude: Each employee is to project a hospitable, friendly, helpful, positive attitude and be capable and willing to answer visitors’ questions about both job and general Refuge information.

(3) Employee Appearance: The concessioner's employees, who come into direct contact with the public, so far as practicable, should wear a uniform or badge by which they may be identified as employees of the concessioner. The concessioner must require its employees to exercise courtesy and consideration in their relations with the public and present a neat, clean, and otherwise attractive appearance.

(4) Operating Hours: All facilities and services must be operated, as far as practicable, in accordance with the concessioner's advertised itinerary.

(5) Staffing: All facilities and services must be properly staffed so as to prevent undue delays. In determining what constitutes undue delay, consideration must be given to the kinds and types of service being rendered and situations beyond the control of the concessioner such as facility or equipment breakdowns or sudden and extreme weather changes and conditions, or Service-directed restrictions or closures.

(6) Reservation and Deposit Refunds: Reservation, cancellation and deposit refund policies must be reasonable, not overly restrictive, efficiently handled, and contained in appropriate advertising material rate schedule and/or operating agreement as approved by the Superintendent.

#### **N) Resource Protection**

(1) Wildlife interactions: Feeding wildlife in the Area is prohibited. The Concessioner must not encourage nor inadvertently facilitate the feeding of wildlife within or outside its assigned area or during activities.

(2) The Concessioner must comply with all Service rules and regulations dealing with resource protection and ensure that its employees and clients are aware of these rules and regulations.

(3) The Concessioner must ensure that food storage and bear safety regulations are adhered to throughout the entire season.

#### **O) Animal Care and Protection**

The Concessioner must be knowledgeable in the proper and humane care and treatment of horses, and all precautions shall be taken to ensure proper treatment of the animal by the Concessioner and its employees and visitors.

(1) All horses used in the Concessioner's operation shall be healthy, well cared for, and suitable for pulling sleighs or wagons.

(2) Sufficient water shall be always available to animals.

(3) Feed and forage shall be provided in sufficient quantity, and properly stored by the Concessioner.

(4) The Concessioner shall ensure proper fitting tack on all horses to avoid rubs and sores.

(5) Abuse and/or neglect of animals is a violation of law and will not be tolerated. Any abuse and/or neglect of the animals shall result in immediate termination of the Contract.

(6) The Concessioner shall provide prompt treatment for all ailments and injuries, along with routine care and grooming.

(7) The Contractor shall allow a FWS representative to evaluate all horses associated with the operation of this Contract at any time during the Contract Term.

a. In the event a FWS representative determines that treatment is not being provided appropriately, adequately, or in a timely manner; or that animals are not receiving proper care, the Service may arrange for the provision of such care and/or treatment, which may require the transfer of an animal from the Concession Area to a care provider as directed by the Service. The Contractor shall be responsible for all costs associated with said removal and the provision of care/treatment. Records of care and/or treatment, including routine care (i.e. vaccinations, routine dental care, farrier service, etc.), specialized care shall be available for inspection by the Service at any time.

#### **O) Snow Removal**

Routine snow removal to allow access to the livestock facility and sleigh/wagon storage area from the National Elk Refuge Road to said area via the maintenance building access road will be the responsibility of the Concessioner. The Concessioner is also responsible for routine snow removal of the sleigh ride staging area and associated parking area. The Concessioner may request snow removal assistance from the Refuge during emergency situations at the discretion of the Refuge Manager.

#### **P) Use of US Fish and Wildlife Service and National Wildlife Refuge Emblem**

The Concessioner is not allowed to use the official US Fish and Wildlife Service and National Wildlife Refuge Emblem for advertising or on employee uniforms.

#### **(5) PARKING AND STAGING**

(A) Concessioner employees may park in the designated parking areas at the visitor center parking area, sleigh ride staging area and livestock facilities only.

(B) Sleigh ride guests may only park in the visitor center parking area. Special consideration (special needs accessibility, small groups, etc.) for guests parking at the sleigh ride staging area must be pre-approved by the Visitor Services Manager.

#### **(6) SLEIGH / WAGON RIDES**

(A) A qualified guide must accompany every sleigh ride tour.

(B) Guides are responsible for the behavior of the clients in their party. If a guide is unable to control a client, the guide must contact a Refuge Law Enforcement Officer or County Sheriff Deputy as soon as possible.

(C) The Concessioner must ensure that all sleighs and wagons are in good working order.

**(6) SLEIGH RIDES SHUTTLE**

(A) The Concessioner and its employees must comply with all applicable state, local and federal laws (e.g., registration requirements, accident reporting, traffic control devices, driver's licenses, right-of-way, speed limits, unsafe operation, operating under the influence, open container, etc.).

(B) The sleigh ride shuttle will transport guests to and from the sleigh ride staging area from the designated portion of the visitor center parking area only.

(C) The Concessioner must ensure that all shuttle buses are in good working order and conform to all local, state and federal laws in regard to operation, licensing, safety and mechanical requirements.

**7) SUBCONCESSIONERS**

Subconcessioner(s) are not permitted.

## **EXHIBIT B**

### **Nondiscrimination**

#### **SEC. 1 REQUIREMENTS RELATING TO EMPLOYMENT AND SERVICE TO THE PUBLIC**

##### **(a) Employment**

During the performance of this Contract the Concessioner agrees as follows:

(1) The Concessioner must not discriminate against anyone on the basis of race, color, national origin, sex (including pregnancy, gender identity, transgender status, and sexual orientation), religion, disability, age, status as a parent, or genetic information, with regard to any program, activity, or service, including employment. You are subject to the following Equal Opportunity Employment laws and policies: · Title VI of the Civil Rights Act of 1964; · Age Discrimination Act of 1967; · Rehabilitation Act of 1973; · Americans with Disabilities Act of 1990 (amended in 2008 to broaden the definition of disability); · Genetic Information Act of 2008; · Executive Order (EO) 13152, Further Amendment to Executive Order 11478, Equal Employment Opportunity in Federal Government (Parental Status); · EO 13672, Sexual Orientation; and · Personnel Bulletin 18-01 "Prevention and Elimination of Harassing Conduct.

(2) The Concessioner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, or disabling condition. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessioner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provision of this nondiscrimination clause.

(3) The Concessioner will, in all solicitations or advertisements for employees placed by on behalf of the Concessioner, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or disabling condition.

(4) The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) Within 120 days of the commencement of a contract every Government contractor or subcontractor holding a contract that generates gross receipts which exceed \$50,000 and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.

(6) The Concessioner will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(7) The Concessioner will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the Concessioner's books, records, and accounts by the Secretary of the Interior and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(8) In the event of the Concessioner's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Concessioner may be declared ineligible for further Government concession contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(9) The Concessioner will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Concessioner will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Concessioner becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Secretary, the Concessioner may request the United States to enter into such litigation to protect the interests of the United States.

#### **(b) Construction, Repair, and Similar Contracts**

The preceding provisions A(1) through A(8) governing performance of work under this Contract, as set out in Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, shall be applicable to this Contract, and shall be included in all contracts executed by the Concessioner for the performance of construction, repair, and similar work contemplated by this Contract, and for that purpose the term "Contract" shall be deemed to refer to this instrument and to contracts awarded by the Concessioner and the term "Concessioner" shall be deemed to refer to the Concessioner and to contractors awarded contracts by the Concessioner.

#### **(c) Facilities**

(1) Definitions: As used herein:

(i) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner;



(ii) Facility shall mean any and all services, facilities, privileges, accommodations, or activities available to the general public and permitted by this agreement.

(2) The Concessioner is prohibited from:

(i) publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, age, national origin, or disabling condition;

(ii) discriminating by segregation or other means against any person.

## **SEC. 2 ACCESSIBILITY**

Title V, Section 504, of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law, and calls for consultation with disabled persons in determining what is reasonable and feasible.

No handicapped person shall, because a Concessioner's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance or conducted by any Executive agency or by the U.S. Postal Service.

### **(a) Discrimination Prohibited**

A Concessioner, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(4) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

**(b) Existing Facilities**

A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

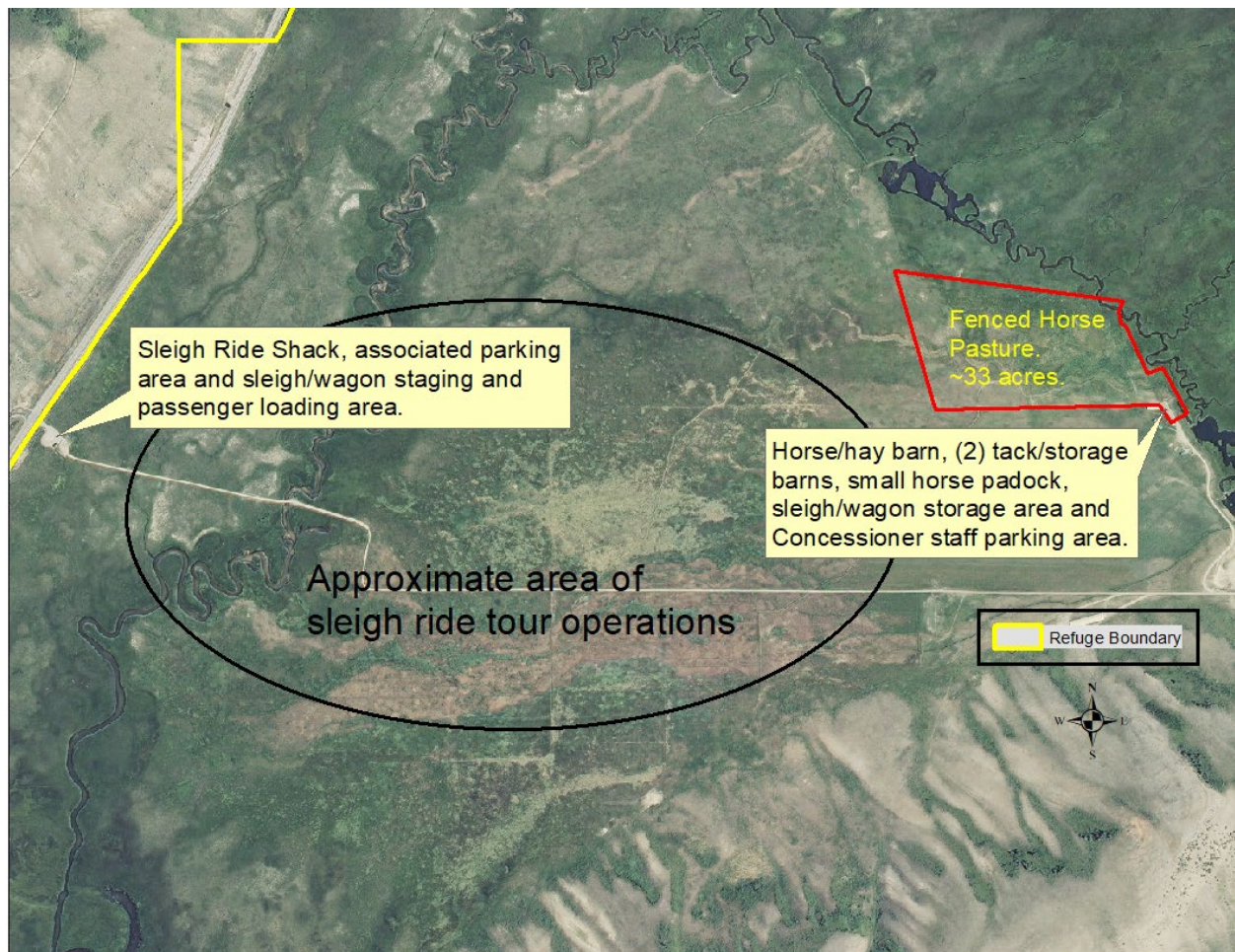
## EXHIBIT C Assigned Land and Real Property Improvements

### Land Assigned

Land assigned is the 33-acre horse pasture and associated pens as indicated in the following map.

### Real Property Improvements Assigned

The following real property improvements indicated in the call-out text in the following map are assigned to the concessioner for use in conducting its operations under this Contract.



**USFWS Real Property Asset Numbers**

Sleigh Ride Shack - 50000027846

Sleigh Ride Parking Lot - 50000041584

Hay/Horse Barn - 50000047186

Tack Shed - 50000027782

Tack Shed - 50000027783

Horse Facility Parking Area – N/A

Approved, effective \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_

[Name]

Regional Director, Region 6

**EXHIBIT D**  
**Government Personal Property**

**ASSIGNED GOVERNMENT PERSONAL PROPERTY**

No government-owned personal property is assigned to the Concessioner for the purposes of this Contract.

Approved, effective \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_

[Name]

Regional Director, Region 6

## EXHIBIT E

### Maintenance Plan

#### 1) INTRODUCTION

This Maintenance Plan between *(insert concessioner name)* (hereinafter referred to as the "Concessioner") and the U.S. Fish and Wildlife Service (hereinafter referred to as the "Service") sets forth the Maintenance responsibilities of the Concessioner and the Service with regard to those lands within the National Elk Refuge (hereinafter referred to as the "Refuge") that are assigned to the Concessioner for the purposes authorized by the Contract. In the event of any apparent conflict between the terms of the Contract and this Maintenance Plan, the terms of the Contract, including its designations and amendments will prevail. Full compliance with the requirements of this Maintenance Plan is required in order to satisfy the Concessioner's Maintenance obligations under the terms of the Contract, including, without limitation, Component Renewal as defined below.

This plan will remain in effect until superseded or amended. It will be reviewed annually by the Refuge Manager in consultation with the Concessioner and revised as determined necessary by the Refuge Manager. Revisions may not be inconsistent with the terms and conditions of the main body of the Contract. Any revisions must be reasonable and in furtherance of the purposes of this Contract.

Pursuant to the Contract, the Concessioner is solely responsible for the Maintenance of all Concession Facilities to the satisfaction of the Service. Compliance with the terms of this Maintenance Plan is required for this purpose.

#### 2) GENERAL STANDARDS

##### Definitions

In addition to the defined terms contained or referenced in the Contract, the following definitions apply to this Maintenance Plan.

**Asset** – Real Property that the Service desires to track and manage as a distinct identifiable entity. It may be a physical structure or grouping of structures, land features, or other tangible property that has a specific service or function such as an office building, cabin, residence, maintenance building, livestock facility, etc.

**Component** – A portion of an Asset or system.

**Concession Facilities** - Concession Facilities, as defined in the main body of the Contract, are all Refuge lands assigned to the Concessioner under the Contract and all real property improvements assigned to the Concessioner under the Contract.

**Contract** – The agreement (as it may be amended from time to time) to which this Maintenance Plan is attached, including all attachments, exhibits or incorporated provisions of the agreement.

**Deficiencies** – Defects in an Asset or Component that results when Maintenance is not performed in a timely manner. Deficiencies may not have immediately observable physical

consequences, but when allowed to accumulate uncorrected, lead to deterioration of performance, loss of Asset value, or both.

**Environmentally Preferable** – Products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, productions, manufacturing, packaging, distributions, reuse, operations, maintenance, or disposal of a product or service. Product considerations include, but are not limited to, the environmental impacts of the product’s manufacture, product toxicity, and product recycled content including post- consumer material, amount of product packaging, energy or water conserving features of the product, product recyclability and biodegradability. These include those products for which standards have been established for federal agency facilities and operations.

**Facility Operations** – Operational actions performed by the Concessioner on a recurring basis that meet daily operational needs of Concession Facilities. Typical work performed under Facility Operations includes janitorial and custodial services, snow removal, operation of utilities, and grounds keeping. Certain Facility Operations requirements may be included in Exhibit A (Operating Plan) to the Contract.

**Feasible** – The ability to provide the equipment, materials or procedures that are required because they are technically possible, economically reasonable, appropriate for the location and the use identified, and consistent with industry best management practices.

**Hazardous Substance** – Any hazardous waste, hazardous chemical or hazardous material as defined under 40 Code of Federal Regulations (CFR), Part 261, US Occupational Safety and Health Administration (OSHA) in 29 CFR 1910.1200 or 40 CFR 171, respectively.

**Hazardous Waste** – Any waste defined as such under 40 CFR §§ 261 – 265.

**Maintenance** – The maintenance of Concession Facilities as described in this Maintenance Plan. Maintenance includes, but is not limited to, actions taken under the following maintenance categories: Recurring Maintenance; Facility Operations; Preventive Maintenance; and Repair.

**Personal Property** – Manufactured items of independent form and utility including equipment and objects solely for use by the Concessioner to conduct business. Personal Property includes, without limitation, removable equipment, furniture and goods, necessary for Concessioner operations under the Contract. Personal Property may be Government assigned property.

**Repair** – Work undertaken to restore damaged or worn out Assets or Components to a fully functional operating condition.

**Replacement** – Exchange or substitution of one Asset or Component for another that has the capacity to perform the same function at a level of utility and service equivalent to the original Asset or Component.

**Solid Waste** – Discarded household and business items such as product packaging, grass clippings and other green waste, furniture, clothing, bottles, food scraps, newspapers, white goods and other appliances. It is more commonly referred to as trash, garbage, litter, or rubbish. The term “solid waste,” as used in this Maintenance Plan, does not include sewage, septic

sludge, hazardous waste, universal waste and miscellaneous maintenance wastes such as used oil, tires and lead-acid batteries.

**Sustainable Practices/Principles** – Those choices/decisions, actions and ethics that will best achieve ecological/biological integrity; protect qualities and functions of air, water, soil, and other aspects of the natural environment; and preservation of human cultures. Sustainable practices allow for use and enjoyment by the current generation, while ensuring that future generations will have the same opportunities.

**Useful Life** – The serviceable life of an Asset or Component.

**Universal Waste** – Any waste as defined under 40 CFR § 273. These include but are not limited to mercury-containing materials such as thermostats, mercury containing lamps such as fluorescent, high intensity discharge, sodium vapor, mercury vapor, lamps, cathode ray tubes (CRTs) from computers and televisions, nickel-cadmium and sealed lead-acid batteries and waste pesticides.

**Waste Prevention** – Any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

**Waste Reduction** – Preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

### **3) CONCESSIONER RESPONSIBILITIES - GENERAL**

#### **A. Maintenance of Facilities**

- 1) The Concessioner must undertake and perform all preventative and routine Facility Management and Maintenance activities in all Concession Facilities to the satisfaction of the Service. The Concessioner must correct any deficiencies and complete this work on a timely basis to achieve the basic goals described in the most current concession management guidelines, relative to all services required and authorized under the Contract.
- 2) The Concessioner must conduct annual inspections of Concession Facilities to determine compliance with this Maintenance Plan and to develop future Maintenance requirements.
- 3) The Service may require, upon request, the Concessioner to provide a planned Personal Property replacement, rehabilitation, and repair schedule for the next calendar year annually by May 1 for review and approval of the Service. The plan must include the specifications, item description, estimated date of replacement, estimated replacement cost, expected life of replacement property, and expected salvage value of replaced Personal Property at time of replacement.
- 4) The Refuge Manager or designated representatives must have access to all concession facilities in the Refuge to conduct evaluations and other required inspections.



**B. Qualified Personnel**

- 1) The Concessioner must employ qualified personnel, as defined by Applicable Laws, to perform all Facility Management activities.
- 2) All personnel conducting Facility Management activities must have the appropriate skills, experience, licenses (as applicable), and certifications (as applicable) to conduct such work.

**C. Compliance with Laws:**

1) The Concessioner must conduct all Facility Management and maintenance activities in compliance with Refuge standards, DOI and USFWS Asset Deferred Maintenance Plans and Policy, manufacturer recommendations and/or specifications, applicable building and safety codes, and all Applicable Laws. In the event of a conflict between DOI/NPS Asset Management Plans, Applicable Laws and the manufacturer's specifications, Applicable Laws prevail.

2) The Concessioner, where applicable, must obtain the appropriate permits required by State or local law, U.S. Environmental Protection Agency, and other regulatory agencies and provide copies of the permits to the Service.

3) Certain Maintenance actions may be subject to compliance procedures under the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and other laws as part of a planning process that allows the Service to ensure that all Concessioner activities meet the requirements of Applicable Laws for natural and cultural resource protection.

- a. The Concessioner may be required to prepare an environmental assessment, environmental impact statement, or related documents at its expense for certain Maintenance actions. The Service will advise the Concessioner on proper process and procedure.

**D. Improvements**

- 1) The Concessioner will not construct or install non-removable equipment or facilities without approval from the Refuge Manager.
- 2) Any proposed Maintenance actions that require review under these procedures must be submitted to the Refuge Manager by the Concessioner in the format required.

**E. Environmental Standards**

The Concessioner must conduct Maintenance activities in a manner that, to extent feasible, minimizes environmental impact and utilizes principles of preventive maintenance, waste prevention and reduction, sustainable design and sustainable practices/principles and incorporates best management practices.

- 1) Preventive Maintenance

The Concessioner must utilize preventive maintenance to prevent environmental impacts before they occur.

2) Energy and Water Conservation

The Concessioner must maximize implementation of energy and water conservation strategies where economically and technically feasible and appropriate for operations and maintenance activities under this Contract.

3) Contractors

The Concessioner must encourage companies and businesses it does business with to provide cleaner technologies and safer alternatives to toxic and hazardous materials and to develop innovative technology.

4) Purchasing

The concessioner must purchase environmentally friendly cleaners and other products whenever appropriate.

5) Environmentally Preferable Products, Materials and Equipment

Where feasible and available, the concessioner must use products or materials that are less toxic, contain post-consumer recycled content, are naturally or minimally processed products, and use other materials that have additional environmentally preferable attributes.

a. The concessioner must minimize use of hazardous chemicals in its operation.

6) Air Quality

The Concessioner will minimize impacts to air quality in maintenance under this contract using appropriate control equipment and practices.

a. The Concessioner will consider using diesel fuel/heating oil containing no more than 500 parts per million (ppm) sulfur (i.e., low sulfur fuel) to the extent practicable.

7) Hazardous Substances

The Concessioner will minimize the use of hazardous substances for maintenance purposes under this Contract where feasible.

a. The Concessioner will provide secondary containment for hazardous substances storage where there is a reasonable potential for discharge to the environment. At a minimum, the Concessioner will provide secondary containment for hazardous substances located in outside storage areas and in interior storage areas in the proximity of exterior doorways or floor drains.

8) Pest Management

The Concessioner will conduct any pest management activities (rodent control) using physical control measures (traps) only. Rodenticides are not allowed.

9) Solid Waste

a. Litter Abatement

- i. The Concessioner will develop, promote and implement a litter abatement program and provide litter free messages on appropriate materials and in appropriate locations.
- ii. The Concessioner will keep all Concession Facilities free of litter, debris, and abandoned equipment, vehicles, furniture, and fixtures.

b. Solid Waste Storage and Collection and Disposal

- i. The Concessioner is responsible for providing, at its own expense, an effective system for the collection, storage and disposal of solid waste generated by its facilities and services as well as the solid waste generated by the visiting public at its facilities.
- ii. To prevent pest attraction and breeding, all solid waste from the Concessioner's operations will be adequately bagged, tied, and stored in sealed containers.
- iii. Solid waste collection and disposal will be conducted on a schedule approved by the Service, at a rate as necessary to prevent the accumulation of waste.
- iv. Solid waste that is not recycled will be properly disposed at an authorized sanitary landfill or transfer station.

c. Solid Waste Receptacles

- i. The Concessioner will locate its solid waste containers (i.e., cans, "roll-off" containers/dumpsters, etc.) conveniently and in sufficient quantity to handle the needs of its operations. The Concessioner will not allow waste to accumulate in containers to the point of overflowing.
- ii. Outdoor receptacles must be waterproof, vermin-proof, and covered with working lids. Indoor receptacles should be similarly constructed based on use (i.e., food waste versus office trash).
- iii. Only "bear resistant" outdoor solid waste receptacles/containers may be used.
- iv. The Concessioner will keep its receptacles clean, well maintained, and serviceable; containers must be clearly signed; sites must be free of spills, waste, and odors. All solid waste containers will remain closed when containers are not in use.

d. Solid Waste Source Reduction and Recycling

- i. The Concessioner will implement a source reduction program designed to minimize its use of disposable products in its

operations. Purchase and reuse of materials is encouraged where feasible as the first choice in source reduction.

- ii. The Concessioner is encouraged to reuse materials where allowable under Applicable Laws where the collection of the materials will not present public health, safety or environmental concerns.

#### 10) **Water Efficiency and Quality**

The Concessioner will consider water and energy efficiency in all facility management practices and integrate water-conserving and energy conserving measures whenever feasible.

- a. As new technologies are developed, the Concessioner will assess these opportunities and integrate them into existing operations where feasible and there is the potential for increased efficiency, reduced water or energy consumption, or reduced impacts on the environment.
- b. The Concessioner will minimize impacts to water quality in maintenance under this contract through the use of appropriate control equipment and practices.

#### 4) **FACILITY SPECIFIC CONCESSIONER RESPONSIBILITIES**

##### **A. Personal Property**

(1) Required personal property. To fulfill the required services of the Draft Contract, the Concessioner must have the following personal property:

- (a) A minimum of 8 sleighs and (8) wagons capable of carrying at least 20 passengers (each) in comfort and safety during sleigh ride operations. Concessioner must provide both sleighs and wagons as early season or late season conditions may not be conducive to sleighs. Sleighs and wagons must be designed to withstand the harsh conditions found on the Refuge.
- (b) A minimum of 30 well-conditioned large horses and associated tack for pulling the sleighs/wagons. The number of horses used for the operation of the concession must facilitate one day of rest between each day of working for each horse for animal welfare purposes.
- (c) All necessary equipment and supplies for the proper care of the horses, sleighs and wagons and other supporting personal property.
- (d) A minimum of 2 approximately 50-passenger buses for shuttling customers to and from the Refuge Visitor Center parking area to the sleigh ride onboarding facility.
- (e) A mobile, outdoor ticket sales booth (trailer or similar) that can accommodate ticket sales and business needs in a designated portion of the Refuge Visitor Center parking area.

(f) All vehicles, trailers and other mobile equipment needed to transport and care for horses, sleighs, and wagons.

(g) Appropriate snow removal equipment to meet snow removal requirements listed in the Operating Plan.

(h) A minimum of two accessible portable bathrooms to be located at the Sleigh Shack site to be used by sleigh ride operators and participants.

(2) Personal Property Replacement Plan. No later than 60 days after execution of the contract, the Concessioner must provide the Service for review and approval with its personal property replacement plan -- a proposed personal property replacement plan for the first three years of operation that outlines obsolete or outdated personal property, or purchase of new or additional appropriate property and a schedule for replacement of the property. The personal property replacement plan must include horses, sleighs, and wagons. This plan must include:

- specifications (for purchased equipment)
- estimated date of replacement
- estimated replacement cost
- expected life of replacement property

**B. Assigned Property**

(1) Sleigh Shack

(a) The Concessioner must maintain the structural integrity and appearance of Concession Facilities commensurate with the integrity and appearance of the structures at the acceptance of the contract.

(b) The Concessioner must ensure that all interior spaces are clean, properly illuminated, and well maintained.

(c) The Concessioner must maintain walls and ceilings free of tears and stains, with a fresh appearance. Windows must be clean and unbroken. Floors must be clean, free of litter and stains.

(d) The Concessioner must maintain interior lighting as appropriate for its use.

(e) All furniture should be commensurate with the size of the area and its intended purpose, present a well-organized and uncluttered appearance, be in good repair, and adequate for the visitor's comfort.

(f) The Concessioner must maintain the structural integrity of Concession Facilities.

(g) The Concessioner must prevent the entering of wildlife.

(h) The Concessioner must inspect platforms and exterior walls on an annual basis to ensure they are structurally sound, and perform necessary maintenance or replacement.

(i) Grounds will be well-maintained, properly illuminated, uncluttered, and free of litter and debris.

(j) The concessioner will provide an effective system for the collection and disposal of garbage and trash within its area of responsibility at the facilities. Waste should not accumulate in containers to the point of overflowing. Receptacles should conveniently located, and in sufficient quantity to handle the needs of the camp. Receptacles should be covered, waterproof, and animal-proof. The Concessioner must ensure that food storage and bear safety regulations are adhered to throughout entire season. In particular, late winter season and early spring bear activity requires that the concessioner must use proper food and garbage storage.

(k) The Concessioner will be responsible for snow removal from the access road and parking area associated with this Concession Facility in a manner that ensures safe use and access by the Concessioner and participants.

## (2) Tack Storage Buildings and Barn

(a) The Concessioner must maintain the structural integrity and appearance of Concession Facilities commensurate with the integrity and appearance of the structures at the acceptance of the contract.

(b) The Concessioner must ensure that all interior spaces are clean, properly illuminated, and well maintained.

(c) The Concessioner must maintain interior lighting as appropriate for its use.

(d) The Concessioner must prevent the entering of wildlife.

(e) The Concessioner must inspect exterior of Concession Facilities on an annual basis to ensure they are structurally sound and must perform necessary maintenance or replacement.

(f) Grounds will be well-maintained, properly illuminated, uncluttered, and free of litter and debris.

(g) The Concessioner will provide an effective system for the collection and disposal of garbage and trash within its area of responsibility at the facilities. Waste should not accumulate in containers to the point of overflowing. Receptacles should conveniently located, and in sufficient quantity to handle the needs of the camp. Receptacles should be covered, waterproof, and animal-proof. The Concessioner must ensure that food storage and bear safety regulations are adhered to throughout entire season. In particular, late winter season and early spring bear activity requires that the concessioner must use proper food and garbage storage.

(h) The Concessioner will be responsible for snow removal from the access road parking area associated with this Concession Facility in a manner that ensures safe use and access by the Concessioner.

## (3) Horse Pens and Pasture

(a) The Concessioner must maintain the structural integrity and appearance of Concession Facilities commensurate with the integrity and appearance of the structures at the acceptance of the contract.

(b) The Concessioner must inspect Concession Facilities on a weekly basis to ensure they are structurally sound and perform necessary maintenance or replacement.

(c) Grounds will be well-maintained, properly illuminated, uncluttered, and free of litter and debris.

(d) The concessioner will provide an effective system for the collection and disposal of garbage and trash within its area of responsibility at the facilities. Waste should not accumulate in containers to the point of overflowing. Receptacles should conveniently located, and in sufficient quantity to handle the needs of the camp. Receptacles should be covered, waterproof, and animal-proof. The Concessioner must ensure that food storage and bear safety regulations are adhered to throughout entire season. In particular, late winter season and early spring bear activity requires that the concessioner must use proper food and garbage storage.

#### (4) Ticket Booth

(a) The Concessioner must maintain the structural integrity and appearance of Concession Facilities.

(b) The Concessioner must ensure that all interior spaces are clean, properly illuminated, and well maintained.

(c) The Concessioner must maintain walls and ceilings free of tears and stains, with a fresh appearance. Windows must be clean and unbroken. Floors must be clean, free of litter and stains.

(d) The Concessioner must maintain interior lighting as appropriate for its use.

(e) All furniture should be commensurate with the size of the area and its intended purpose, present a well-organized and uncluttered appearance, be in good repair, and adequate for the visitor's comfort.

(f) The Concessioner must prevent the entering of wildlife.

(g) The Concessioner must inspect platforms, stairs and exterior walls on an annual basis to ensure they are structurally sound and must perform necessary maintenance or replacement.

(h) Grounds will be well-maintained, properly illuminated, uncluttered, and free of litter and debris.

(j) The concessioner will provide an effective system for the collection and disposal of garbage and trash within its area of responsibility at the facilities. Waste should not accumulate in containers to the point of overflowing. Receptacles should conveniently located, and in sufficient quantity to handle the needs of the camp. Receptacles should

be covered, waterproof, and animal-proof. The Concessioner must ensure that food storage and bear safety regulations are adhered to throughout entire season. In particular, late winter season and early spring bear activity requires that the concessioner must use proper food and garbage storage.

(5) Shuttle Buses

- a. The Concessioner will maintain the appearance and integrity of Concession Facilities.
- b. The Concessioner will ensure that all repairs and scheduled preventative maintenance is completed to ensure the safety of operators and passengers.
- c. The Concessioner must ensure that all vehicular equipment used by the Concessioner, is properly registered, licensed, insured, and maintained in accordance with Applicable Laws.
- d. The Concessioner must discreetly identify its vehicles with the company name and logo. All signage must be professionally printed and not handwritten.

**5) SERVICE RESPONSIBILITIES**

Nothing in this Maintenance Plan will be construed as requiring the Service to conduct Maintenance of Concession Facilities of any kind except as otherwise expressly stated by the terms of this Maintenance Plan. This Maintenance Plan may describe certain Service responsibilities for particular elements of Maintenance of Concession Facilities. Any approval or consent given by the Service of any plan, permit, report, inspection, or any other consent or approval given by the Service under this Maintenance Plan does not relieve the Concessioner or the Concessioner's contractors of any responsibility for any errors or omissions or from the responsibility to comply with the requirements of this Maintenance Plan or the Contract.



## **EXHIBIT F**

### **Insurance**

#### **INSURANCE REQUIREMENTS**

The Concessioner shall obtain and maintain during the entire term of this Contract, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the Contract. No act of the Concessioner, its agents, servants, or employees may impair any and all insurance coverage provided for the benefit of, or evidenced to the Service. The Concessioner must ensure that its insurance carriers provide the Service, solely for the benefit of the Service, an unconditional 30 days advance notice of cancellation in coverage or policy terms for all property insurance. Concessioners must provide the Service with a 30-day notice of cancellation on all liability and workers' compensation insurance policies.

The amounts of insurance, limits of liability, and coverage terms included are not intended as a limitation of the Concessioner's responsibility or liability under the Contract, but rather an indication as to the minimum types, amounts, and scope of insurance that the Service considers necessary to allow the operation of the concession at the Area. Nevertheless, if the Concessioner purchases insurance in addition to the limits set forth herein, the Service will receive the benefit of the additional amounts of insurance without additional cost to the Service.

#### **LIABILITY INSURANCE**

The Concessioner must maintain the following minimum Liability Coverages, all of which, unless noted herein, are to be written on an occurrence form of coverage. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with Excess or "Umbrella" liability as explained below.

- A.** The Concessioner to secure public liability insurance to protect both it and the Government according to good business practices. This insurance must not be less than what state or local law requires or the customary amount that the area business community carries. The minimum public liability coverage must not be less than \$1,000,000. The Concessioner must co-name the Government as co-insured in each insurance policy for a concession operation on Government-owned lands and waters.
- B.** The Concessioner to secure personal property/contents insurance for the replacement value of the Concessioner's property. The Concessioner should provide property coverage for replacement value of Service facilities where they operate.
- C.** The Concessioner to secure workers' compensation or other required insurance for all employees.
- D.** The Concessioner to maintain current validation/certification of all necessary types of insurance

#### **INSURANCE COMPANY MINIMUM STANDARDS**

All insurance companies providing the above described insurance coverages must meet the minimum standards set forth below:

- (1) All insurers for all coverages must be rated no lower than A- by the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.
- (2) All insurers for all coverages must have a Best's Financial Size Category of at least VII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.

### **THIRD PARTY VENDOR INSURANCE**

Concessioners entering into contracts with third party vendors for various services or activities that the Concessioner is not capable of providing or conducting, must ensure that all vendors retained for such work maintain an insurance program that adequately covers the activity and complies with all the requirements applicable to the vendor's own insurance.

### **CERTIFICATES OF INSURANCE**

All certificates of insurance required by this Contract shall be completed in sufficient detail to allow easy identification of the coverages, limits, and coverage amendments that are described above. In addition, the insurance companies must be accurately listed along with their A.M. Best Identification Number ("AMB#"). The name, address, and telephone number of the issuing insurance agent or broker must be clearly shown on the certificate of insurance as well.

Due to the space limitations of most standard certificates of insurance, it is expected that an addendum will be attached to the appropriate certificate(s) in order to provide the space needed to show the required information.

In addition to providing certificates of insurance, the Concessioner, upon written request of the Director, shall provide the Director with a complete copy of any of the insurance policies (and all endorsements thereto) required herein to be maintained by the Contract including this Exhibit.

The certificate of insurance shall contain a notation by the Concessioner's insurance representative that the insurance coverage represented therein complies with the provisions of the Contract, including this Exhibit.

### **STATUTORY LIMITS**

In the event that a statutorily required limit exceeds a limit required herein, the Concessioner must maintain the higher statutorily required limit, which shall be considered as the minimum to be maintained. In the event that the statutorily required limit is less than the limits required herein, the limits required herein apply.

## **EXHIBIT G**

### **Transition to a New Concessioner**

#### **SEC 1. GENERAL**

The Director and the Concessioner hereby agree that, in the event of the expiration or termination of this Contract for any reason (hereinafter "Termination" for purposes of this Exhibit) and the Concessioner is not to continue the operations authorized under this Contract after the Termination Date, the Director and the Concessioner in good faith will fully cooperate with one another and with the new concessioner or concessioners selected by the Director to continue such operations ("New Concessioner" for purposes of this exhibit), to achieve an orderly transition of operations in order to avoid disruption of services to Area visitors and minimize transition expenses.

#### **SEC. 2. COOPERATION PRIOR TO THE TERMINATION DATE**

At such time as the Director may notify the Concessioner that it will not continue its operations upon the Termination of this Contract, the Concessioner, notwithstanding such notification, shall undertake the following tasks.

##### **A. Continue Operations**

The Concessioner shall continue to provide visitor services and otherwise comply with the terms of the Contract in the ordinary course of business and endeavor to meet the same standards of service and quality that were being provided previously with a view to maintaining customer satisfaction.

##### **B. Continue Bookings**

1. The Concessioner shall continue to accept all future bookings for any services for which advance reservations are taken. The Concessioner shall not divert any bookings to other facilities managed or owned by the Concessioner or any affiliate of the Concessioner. The Concessioner shall notify all guests with bookings for any period after the Termination Date that the New Concessioner will operate the facilities and services.
2. Promptly following notification to the Concessioner by the Director of the selection of the New Concessioner, the Concessioner shall provide the New Concessioner with a copy of Concessioner's reservation log for visitor services as of the last day of the month prior to the selection of the New Concessioner. The Concessioner thereafter shall update such log on a periodic basis (but no less frequently than 30 days) until the Termination Date. The reservation log shall include, without limitation, the name of each guest, and the guest's contact information, dates of stay, rate quoted, amount of advance deposit received, and confirmation number, if applicable.

##### **C. Designating a Point of Contact and Other Actions**

1. The Concessioner shall designate one of the Concessioner's executives as the point of contact for communications between the Concessioner and the New Concessioner.

2. The Concessioner shall provide the New Concessioner with access to all Concession Facilities, including “back-of-house areas”.
3. The Concessioner shall provide the Director and the New Concessioner full access to the books and records, licenses, and all other materials pertaining to all Concession Facilities and the Concessioner’s operations in general.
4. The Concessioner shall provide the Director and the New Concessioner with copies of all maintenance agreements, equipment leases, service contracts, and supply contracts, including copies of all other licenses and permits (collectively “licenses”).
5. The Concessioner shall allow the New Concessioner to solicit and interview for employment all of the concessioner’s salaried and hourly employees, including seasonal employees, through a coordinated process implemented by the Concessioner.
6. The Concessioner shall not enter into any contracts or agreements that would be binding on any Concession Facilities or concession operations in general after the Termination Date without the prior written agreement of the New Concessioner.

**D. Financial Reports**

Within 30 days after receipt of the notification of the selection of the New Concessioner, The Concessioner shall provide the New Concessioner with a financial report with respect to the operation of the Concession Facilities and the Concessioner’s operations in general as of the last day of the month prior to receipt of such notification. The Concessioner, thereafter, shall update such financial report on a periodic basis (but no less frequently than 30 days) until the Termination Date. Such financial report shall include, at a minimum: a balance sheet for the Concession Facilities, if any; a schedule of pending accounts payable; and a schedule of pending accounts receivable.

**E. Personal Property List**

The Concessioner shall provide the New Concessioner with a complete, detailed, and well-organized list of physical inventory, supplies, and other personal property owned or leased by the Concessioner in connection with its operations under the Contract (including a list of such items that are on order) The Concessioner must provide the list to the New Concessioner within 30 days following receipt of the notification of the selection of the New Concessioner. The Concessioner, thereafter, shall update the list on an annual basis. The Concessioner shall designate those items that the Concessioner believes are essential to maintaining the continuity of operations or the special character of the concession operations. The Concessioner shall assist the New Concessioner in reviewing and validating the list.

**F. Other Information and Reports**

The Concessioner shall provide the New Concessioner with all other information and reports as would be helpful in facilitating the transition, including, without limitation, a list of maintenance records for the Concessioner’s operations for the period of one year prior to notification of the selection of the New Concessioner. The Concessioner must also provide complete information on the following to the New Concessioner: utilities, including gas and electric; telephone service; water service; and specific opening and

closing procedures. The Concessioner must provide all such information within 30 days after receipt of notification of the selection of the New Concessioner and update the information periodically (but no less frequently than 30 days) until the Termination Date.

**G. Other Cooperation**

The Concessioner shall provide the Director and the New Concessioner with such other cooperation as reasonably may be requested.

**SEC. 3. COOPERATION UPON THE TERMINATION DATE**

Upon the Termination Date, the Concessioner shall undertake the following activities.

**A. Transfer of Contracts and Licenses**

The Concessioner shall cooperate with the transfer or assignment of all contracts and licenses entered into by the Concessioner that the New Concessioner elects to assume.

**B. Reservation Systems**

The Concessioner shall cooperate with the transfer of reservation information by:

1. Providing the New Concessioner with an update of the reservation log through the Termination Date;
2. Disconnecting its operations from the Concessioner's centralized reservation system, if any; and
3. Assisting the New Concessioner in transitioning to the New Concessioner's reservation system.

**C. Fees and Payments**

No later than 10 days after the Termination Date, the Concessioner shall provide the Director with an itemized statement of all fees and payments due to the Director under the terms of the Contract as of the Termination Date, including, without limitation, all deferred, accrued, and unpaid fees and charges. The Concessioner, within 10 days of its delivery to the Director of this itemized statement, shall pay such fees and payments to the Director. The Concessioner and the Director acknowledge that adjustments may be required because of information that was not available at the time of the statement.

**D. (d) Access to Records**

The Concessioner shall make available to the Director for the Director's collection, retention, and use, copies of all books, records, licenses, permits, and other information in the Concessioner's possession or control that in the opinion of the Director are related to or necessary for orderly and continued operations of the related facilities and services, notwithstanding any other provision of this Contract to the contrary.

**E. Removal of Marks**

The Concessioner shall remove (with no compensation to Concessioner) all items of inventory and supplies as may be marked with any trade name or trademark belonging to the Concessioner within 30 days after Termination.

**F. Other Cooperation**

The Concessioner shall provide the Director and the New Concessioner with such other cooperation as reasonably may be requested.

**EXHIBIT H**  
**National Wildlife Refuge Visitor Survey 2019 Results for National Elk Refuge**