

THE CITY OF SAN DIEGO

REQUEST FOR PROPOSALS



**FOR THE REHABILITATION, LEASE AND OPERATION OF
CITY-OWNED PROPERTY LOCATED AT 2688 E. MISSION BAY DRIVE
MISSION BAY PARK, SAN DIEGO**

PROPOSAL DATE: October 26, 2015

PROPOSALS SUBMITTAL DEADLINE:
4:00 p.m. Thursday, December 17, 2015

LOCATION: Real Estate Assets Department
17th Floor, Civic Center Plaza
1200 Third Avenue, Suite 1700
San Diego, CA 92101

CONTACT PERSON: Vladimir Balotsky

TELEPHONE: (619) 235-5248

EMAIL: vbalotsky@sandiego.gov

The City of San Diego (“City”) invites proposals from qualified firms or individuals (“Proposers”) to redevelop (which may include rehabilitation of the existing structure and rehabilitation of the Property consistent with the Mission Bay Park Master Plan), lease, and operate the City-owned property located at 2688 East Mission Bay Drive, San Diego, California, 92109 (“Property”) in Mission Bay Park. The City’s goal is to act in the best interest of the public while exploring the economic viability of the Property. The City is seeking proposals that will ensure a sustainable revenue source to the City, the components of which are to include rehabilitation, leasing, operation, and maintenance of the Property in accordance with the terms and conditions contained in this Request for Proposals (“RFP”). The Proposer selected by the City (“Selected Proposer”) shall demonstrate the ability to redevelop and operate the Property that will meet or exceed the objectives of the City’s Park and Recreation Department, as well as incorporate achievable, innovative ideas that are appropriate for services in Mission Bay Park.

A. AREA OVERVIEW/BACKGROUND

The Property is located in Mission Bay Park (“Park”), which has for decades been one of San Diego’s principal tourism and leisure destinations, providing seven square miles of water and land for recreation and attracting millions of visitors from across the nation and abroad. On a peak summer day, over 100,000 people will use the Park, engaging in a diverse range of activities such as swimming, kayaking, windsurfing, jogging, bicycling, dining, lodging and visiting Sea World.

The Property has excellent visibility to both vehicular and foot traffic. Located on the main North/South thoroughfare through East Mission Bay Drive, the Property offers an easy access to the Interstate 5 and 8 freeways and popular San Diego destinations such as Sea World (3 miles), San Diego Old Town (2.5 miles), San Diego Downtown (6.5 miles), University Town Center (8 miles), La Jolla (7.5 miles) and is approximately 150 feet from the waters of the Park. The Property consists of 2.158-acres of land, including a 4,600 square-foot building, landscaping and parking. The existing building was built in March 1969 and was utilized as the San Diego Visitor Information Center until September 2010. The current surface level parking lot can accommodate up to 86 vehicles.

The Property is designated as the San Diego Visitor Information Center in the Mission Bay Park Master Plan (“Master Plan”), available on the City’s website at: <http://www.sandiego.gov/planning/programs/parkplanning/pdf/mbpmasterplanfv.pdf>. , Visitor services and regional-oriented recreational uses such as a destination restaurant, or café, bike and skate rental, windsurfing, kayaking, stand up paddle board, pedal boat rentals, picnic supplies sale and rentals are appropriate. The Property must provide the public information function and sale of refreshments to the general public. The Property is located in dedicated parkland subject to San Diego City Charter section 55, which restricts the use of dedicated parkland to park and recreation purposes.

B. TYPE OF PROPOSALS SOUGHT

The City is seeking a Proposer to redevelop the Property (which could include rehabilitating the existing structure and developing the Property) and to lease, and operate the Property. Each Proposer should demonstrate the ability to support the City's desire to redevelop and lease the Property in accordance with the Master Plan for the benefit of the general public, users and visitors of the Park and the surrounding community. Proposals should reflect the City's desire to have an operator who provides a high level of service to the public while it operates the Property in a fiscally responsible manner that produces the most revenue for the City.

Proposals must include a conceptual rehabilitation plan for the Property, along with any proposed changes or additions to the existing facilities. Proposals should identify the services to be provided at the Property. Proposals should include, at a minimum, detailed responses for the following requirements.

- i. A preliminary site and floor plan showing the general location of all of the existing and any proposed capital improvements and/or major equipment on the Property including the rehabilitation schedule and cost. Drawings do not need to be detailed construction drawings but should be drawings to a consistent scale in sufficient detail to clearly show the types, dimensions and locations of all proposed improvements and facilities.
- ii. A proposed lease term and a statement justifying the proposed lease term, which shall include a statement of annual gross revenue projections from all operations for the proposed term of the lease, operational and financial plans.
- iii. A list of rent percentages by category for the proposed term and the initial minimum annual rent.

Proposals should consider all applicable laws and available industry guidelines as they apply to liability, public health standards, recreational operations, Americans with Disabilities Act (ADA) access, and the highest standards of maintenance of all facilities and equipment. All proposed improvements shall be consistent with the Design Guidelines in the Master Plan. Proposals must address any required off-site improvements, including but not limited to, curbs, gutters, sidewalks, utilities, landscaping, and ADA compliance for the Property.

Depending on the scope of the proposed rehabilitation of the Property, permits from the California Coastal Commission and the City's Development Services Department may be required.

The Selected Proposer shall be responsible for preparing all required environmental documents to the satisfaction of the California Coastal Commission and the City. All costs relating to site inspections and remediation shall be the sole and complete responsibility of the Selected Proposer. The Selected Proposer shall present the proposed

rehabilitation of the Property to the Mission Bay Park Committee, the Park and Recreation Board's Design Review Committee, the Park and Recreation Board and City Council for review and approval. The Selected Proposer must provide, at its sole cost and expense, all of the necessary trade fixtures and equipment needed to provide the level of service that will be required under the lease. Title to those fixtures and equipment will remain vested in the Selected Proposer until the end of the lease.

C. REQUIRED PRELIMINARY PUBLIC HEARINGS BY SELECTED PROPOSER

To ensure the Selected Proposer makes adequate progress toward rehabilitation of the Property, prior to the negotiation and execution of any lease and within one hundred eighty (180) days of the selection by the City, the Selected Proposer shall present the proposed preliminary plans for rehabilitation of the Property to the Mission Bay Park Committee, the Park and Recreation Board's Design Review Committee, and the Park and Recreation Board. After these hearings, the lease will be presented to the San Diego City Council for review and approval.

The Selected Proposer shall obtain a Coastal Development Permit and all additional entitlements and approvals for the proposed plan for the Property as stated in the lease.

The City, in its sole and absolute discretion, may extend these deadlines provided that the Selected Proposer demonstrates good cause for such extension of time and that any delay or inability to meet the above deadlines was not attributable to the action or inaction of the Selected Proposer. Failure to present to the Mission Bay Park Committee, the Park and Recreation Board's Design Review Committee, or the Park and Recreation Board may, in the City's sole and absolute discretion, result in termination of negotiations with the Selected Proposer and/or the City's issuing another RFP for lease of the Property.

By submitting a proposal pursuant to this RFP and being deemed by the City as the Selected Proposer, the Selected Proposer agrees that the City shall not be liable in any manner whatsoever for exercising its right to terminate negotiations pursuant to this section of the RFP.

D. KEY LEASE PROVISIONS

Depending on the proposed rehabilitation of the Property and type of operation to be conducted therein, the following lease provisions may be incorporated into the Lease to be negotiated and executed between the Selected Proposer and the City, subject to modification, deletion and additional terms as determined by the City in its sole discretion and subject to approval by Mayor and City Council:

1. Uses. The primary use of the Property shall be limited to the operation and maintenance of a destination restaurant or café, restaurant, bike and skate rental, windsurfing rental, picnic supplies sale and rentals. The Property must provide the public information

function and sale of refreshments to the general public and other related and incidental purposes as may be first approved by the City.

2. Term. The proposed term must be justified by the Selected Proposer on the basis of capital investment in equipment, facilities and in promoting the Property and services to the general public. The lease term shall be a minimum term of ten (10) years.

3. Rent. The Selected Proposer shall offer a base rent as a guaranteed minimum annual and percentage rent. Guaranteed annual minimum rent should be equal to an amount not less than eighty percent (80%) of the estimated annual percentage rent to be paid by the Selected Proposer during the first year of the lease term. Suggested minimum percentage rent of gross income for various types of business activities are as follow:

<u>Percentages</u>	<u>Business Activities</u>
Four percent (4%)	Sale of food/non-alcoholic beverages.
Seven percent (7%)	Sales of alcoholic beverages.
Four percent (4%)	Service charges/banquets/gratuities.
Ten percent (10%)	Operation of gift shop.
Ten percent (10%)	Rental operations.
Ten percent (10%)	Coin-operated vending/game/service machines (owned/rented/leased).
Twenty percent (20%)	All other authorized operations.
Fifty percent (50%)	Net commissions on vending/game/service machines.
Fifty percent (50%)	Of all revenue received from any wireless telecommunication equipment installed and operated from the leased premises.

The annual minimum rent will be adjusted every five years during the term of the lease to eighty percent (80%) of the annual average rents preceding the adjustment date.

4. Records. The Selected Proposer shall keep complete and accurate accounting records satisfactory to the City, which shall be subject to City review at reasonable times, to determine the nature and amounts of income from the operation of the Property. The records will be periodically audited by the City.

5. Selected Proposer's Certification. Selected Proposer shall certify that it will implement and at all times comply with the most current Payment Card Industry Data Security Standards (PCI DSS) regarding data security. Selected Proposer will provide written annual confirmation of PCI DSS compliance from the credit card types used by the City (i.e. VISA, MasterCard, Discover, and American Express). Selected Proposer will immediately notify the City if it undergoes, or has reason to believe that it will undergo, an adverse change resulting in the loss of compliance with the PCI DSS standards and/or other material payment card industry standards. In addition, Selected Proposer shall provide payment card companies, acquiring financial institutions, and their respective designees required access to the Selected Proposer's facilities and all pertinent records as deemed necessary by the City to verify Selected Proposer's compliance with the PCI DSS requirements.

6. Data Security. Selected Proposer shall acknowledge responsibility for the security of cardholder data as defined within PCI DSS standards. Selected Proposer shall undergo independent third party quarterly system scans that audit for all known methods hackers use to access private information, in addition to vulnerabilities that would allow malicious software (i.e., viruses and worms) to gain access to or disrupt network devices. Upon request, Selected Proposer will provide the City's Chief Information Security Officer with copies of the quarterly scans for verification. Selected Proposer will provide reasonable care and efforts to detect fraudulent credit card activity in connection with credit card transactions processed during the performance of the lease.

7. Use of Data. Selected Proposer shall acknowledge and agree that it may only use cardholder data for completing the work as described in the lease consistent with PCI DSS standards or applicable law. Selected Proposer shall maintain and protect in accordance with all applicable laws and PCI DSS standards the security of all cardholder data when performing the services.

8. Indemnity. Selected Proposer shall indemnify and hold harmless the City, its officers, and employees from and against any claims, loss, damages, or other harm related to a data security breach or Selected Proposer's failure to maintain PCI DSS compliance standards.

9. Notification Requirements. Selected Proposer shall immediately notify the City's Chief Information Security Officer of any breach, intrusion, or unauthorized card access to allow the proper PCI DSS breach notification process to commence. Selected Proposer shall agree to assume responsibility for informing all affected individuals in accordance with applicable law. All notifications and required compliance documents regarding PCI DSS shall be sent to:

Chief Information Security Officer
1010 2nd Avenue, Suite 500
San Diego, CA 92101
Cybersecurity@sandiego.gov
619-533-4840

10. Right to Assign, Sublet or Encumber. The Selected Proposer may not encumber, assign the lease or any interest therein and may not sublease any portion thereof without prior written approval from the City. The City's approval, however, may be conditioned upon the proposed assignee or sublessee agreeing to revisions to the lease or sublease to reflect market conditions or City requirements that are then in effect. In order for the City to consent to a proposed assignee, that assignee shall be acceptable to the City in terms of financial and professional capabilities to operate the Property and provide services in the Park, as determined by the City.

11. Equity Participation. The Selected Proposer shall pay to City two percent (2%) of the gross amount paid for the leasehold in connection with approved assignment of the lease, two percent (2%) of any amount paid to the selected operator in consideration of a sublease of all or a majority portion of leasehold, or two percent (2%) of the amount of any increased loan or encumbrance against the Property over and above the amount of the encumbrance needed to finance the improvements. The amount upon which the two percent (2%) shall be based shall be total consideration resulting from the transaction including total cash payments and the market value of non-cash consideration, including but not limited to stocks.

12. Compliance with Law. The Selected Proposer shall secure and maintain full compliance with all applicable municipal, county, state, and federal laws and regulations at its own cost, regarding all aspects of the lease and activities in the Park.

13. Utilities. The Selected Proposer must pay for all utility installations and services required for its operation. All utilities shall be installed underground.

14. Insurance. The Selected Proposer shall be required to carry a commercial general liability insurance providing coverage on the Property for bodily injury, including death, personal injury, and property damage with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000). The Selected Proposer shall be required to carry automobile liability insurance, providing coverage of the Property for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000). The Selected Proposer shall be required to carry a worker's compensation insurance with employer's liability coverage with a limit of at least One Million Dollars (\$1,000,000), and special form insurance with replacement cost coverage on all permanent property of an insurable nature located upon the Property in an amount equal to the full replacement of all improvements. Liability limits are to be per site and not a cumulative limit. The Selected Proposer shall also release, indemnify, defend, and hold the City harmless from liability in connection with any and all operations on the Property and/or in the Park.

15. Taxes. The Selected Proposer must pay all taxes and assessments, including possessory interest taxes levied by reason of its leasehold or the rehabilitation of the Property.

16. Default. The City will reserve the right to terminate the lease in the event of Selected Proposer's failure to pay any rent within five (5) days of notice thereof, or to cure any curable default or breach within thirty (30) days of legal notice thereof.

17. Permits and Licenses. The Selected Proposer will be required to obtain all necessary permits and licenses for operations, construction and other activities on the Property at the Selected Proposer's sole cost and expense. By selecting a proposal or executing the lease, neither City nor City's City Council is obligating itself to a proposer or to a governmental agent, board, commission or agency with regard to any other discretionary action relating to an occupancy, use, development, maintenance or restoration of the Property. "Discretionary action" includes without limitation, re-zonings, variances, environmental clearances and all other required governmental approvals. The Selected Proposer shall be solely and fully responsible at all times for obtaining any and all necessary permits and entitlements for the use, rehabilitation, and operation of the Property. At the City's discretion, the lease may be terminated in the event the Selected Proposer fails to obtain all required entitlements within a set time frame. The Selected Proposer shall not operate or allow the operation of any food-handling services on the Property that do not qualify for the conditions and requirements of the "A Card" issued by the County of San Diego Department of Environmental Health to operators of food-handling establishments.

18. Non-Responsibility. The City hereby disclaims any responsibility, liability, or obligation to issue any permits or licenses or to waive any legal requirement by reason of selecting a lessee or executing the lease with the Selected Proposer.

19. Improvements and Alterations. All improvements and alterations to the Property shall be in accordance with plans and specifications approved in writing by the City in advance and shall be at the sole cost and expense of the Selected Proposer.

20. Maintenance. The Property is leased "as is" and all maintenance and repairs shall be the responsibility of the Selected Proposer throughout the entire term of the lease without expense to the City. The Selected Proposer shall maintain the leased premises in a clean, safe and well-maintained condition throughout the term of the lease to the satisfaction of the City and in compliance with all applicable laws.

21. Ownership of Improvements. All improvements except trade fixtures installed by the Selected Proposer during the term of the lease shall become the property of the City, at the City's option, upon termination of the lease. If City elects, all improvements shall be removed from the Property and at the termination or expiration of the lease, at the Selected Proposer's sole cost and expense. The Selected Proposer must remove all trade fixtures and personal property upon termination or expiration of the lease without cost to the City or damage to the premises.

22. Hours of Operation. A regular schedule of days and hours of operation shall be established by the Selected Proposer to best serve the public. Any changes in this schedule shall be subject to the prior written approval of the City.

23. Rate of Charges. All prices of merchandise, equipment, and services shall be comparable with prices of like merchandise, equipment, and services offered in San Diego area. All prices charged must be approved in writing by the City; provided, however, that the Selected Proposer shall not be required to sell any merchandise or offer any services at a loss.

24. Non-Discrimination. The Selected Proposed shall not discriminate in any manner against any person by reason of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or disability in Selected Proposer's use of the Property. The Selected Proposer shall comply with the City's adopted program from equal employment opportunities.

25. Prevailing Wage. If and when applicable, the Selected Proposer shall comply with San Diego Municipal Code section 22.3019 and the California Prevailing Wage Law (California Labor Code sections 1720 – 1861) for construction, alteration, demolition, repair and maintenance work performed on any "public works" project, as defined in the Prevailing Wage Law.

E. RESPONSIBILITY OF PROPOSERS

1. Each Proposer is responsible for making all investigations and examinations necessary for formulating proposals for developing and operating the Property. Submission of a proposal shall be considered evidence that the Proposer is familiar with the nature and extent of the requirements of this RFP and has made such investigations and examinations.

2. Proposers may withdraw their proposals at any time prior to the submission deadline upon written notice to the City Real Estate Assets Department.

F. PROPOSAL CONTENTS

All proposals must include as a minimum the information specified below. Failure to include this information shall be cause to deem a proposal non-responsive and result in its complete rejection. The inclusion of any additional information that will assist in the evaluation is encouraged. The adequacy, depth and clarity of the proposal will influence, to a considerable degree, its evaluation, as set forth in Section J herein. The proposal submitted must be complete enough for selection to be made based solely on its contents. Proposers are advised to make their best offer in their proposals as there will be no auction or competitive negotiation of this RFP.

Each proposal **MUST** include the following items:

1. Identification. The complete identity, including social security number, address, daytime phone number, and employment of the Proposer, or the name of the organization, the organization's Federal Tax ID number and the names and addresses of the principals who will be responsible for the operation of the business and their position in the firm. If the business is a

privately held corporation, a listing of all stockholders, their interest in the company as related to percentage of ownership, and their interest, if any, in the operations of the entity must be included.

2. Experience. A summary of the Proposer's experience and qualifications to redevelop the Property and operate the Property as proposed. If the Proposer is not going to be involved in the day-to-day operation of the Property, then the Proposer must include qualifications and verification that the persons employed as managers at the Property are well qualified sufficiently to satisfy the requirements of this RFP.

3. Financial Statements. Three most recent three (3) years financial statements, audited or CPA prepared, or tax returns for the preceding three years is required. Each Proposer shall submit a full and detailed statement of their true financial condition as of January 1, 2015, or as recent as possible if that date is not available. The statement shall include the Proposer's assets, liabilities and net worth, including the availability of and operation capital and its source. If the Proposer plans to use borrowed capital, then the amount of borrowed capital proposed for the rehabilitation of the Property, improvements and operation, and its source and terms of repayment must be included in the financial statement.

4. Proposed Rehabilitation. The proposal must include a preliminary development plan which consists of a narrative description, preliminary plot plan and proposed schedule of the development, including an estimate of construction costs.

5. Proposed Term. Proposed term of the lease and the justification therefore in terms of the amount of investment.

6. Rental Offer. Rent shall be offered as a guaranteed minimum annual rent and annual percentage rent by category to the City through the term of the lease. Proposers are welcome, and encouraged, to offer rent higher than the percentage rent suggested by the City in Section E.3 above.

G. NONCONFORMING PROPOSALS

Proposers requesting reduced rent during construction, rent credits, or other deviations from the provisions of this RFP and key lease provisions should specifically address the required changes in their proposals. The City is not obligated to accept any proposal, whether conforming or nonconforming.

H. PRE-PROPOSAL INSPECTION

To give prospective Proposers an opportunity to view the site, a pre-proposal inspection of the Property will be scheduled. It is strongly suggested that all Proposers attend the pre-proposal inspections. While attendance is not mandatory, it is the sole responsibility of the Proposer to become familiar with the scope of City's requirements prior to submitting a Proposal.

Date of Pre-Proposal Inspections:

November 9, 2015; November 30, 2015; December 7, 2015.

Time: 9 a.m. to 10 a.m.

Place: 2688 E. Mission Bay Drive, San Diego, CA, 92109 (Building Entrance at 9 a.m.).

Contact: Please contact the proposal coordinator, Vladimir Balotsky in advance, at vbalotsky@sandiego.gov, phone (619) 235-5248; fax (619) 236-6706, if you are planning to attend.

I. PROPOSAL SUBMISSION

1. Due Date

Proposals must be received at the address listed below no later than 4:00 p.m. on Thursday, December 17, 2015.

Proposals received after that time will not be considered and returned to the proposer(s) unopened.

2. Place of Delivery

All proposals should be delivered to:

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

3. Faithful Performance Deposits

All proposals **MUST** include a cashier's check or certified check in the amount of Ten Thousand Dollars (\$10,000) payable to City Treasurer as a faithful performance deposit to assure that, if the proposal is selected by the City, that the Proposer will enter in good faith into a lease agreement containing substantially

the same terms and conditions as set out in this RFP and in the selected proposal. No personal checks will be accepted and no interest will be paid on deposits.

4. Number of Copies

Proposers must submit four complete copies of their proposals. All materials submitted by Proposers become the property of the City and will not be returned, with the exception of the financial information. Financial documents, upon request, will be removed from each proposal and returned to the Proposer upon completion of City's review.

5. Contact Person

The proposal coordinator is Vladimir Balotsky, Supervising Property Agent, City of San Diego. He can be reached at vbalotsky@sandiego.gov, phone (619) 235-5248, fax (619) 236-6706, between 8:00 a.m. and 5:00 p.m., Monday through Thursday.

6. Questions and Comments

Written questions and comments must be sent electronically (e-mailed) to the City Contact Person no later than the Proposal Submittal Deadline identified on the Cover Page of this RFP. Only written communications relative to the RFP shall be considered. E-mails are the only acceptable method for submission of questions. It is incumbent upon Proposers to verify that the City has received their questions and/or comments. All questions will be answered in writing. The City will distribute questions and answers, without identification of the inquirer(s), to all Proposers who are on record as having received this RFP. No oral communications can be relied upon for this RFP. Addenda will be issued addressing questions or comments that are determined by the City to cause a change to any part of this RFP.

J. PROPOSAL EVALUATION AND SELECTION

The City reserves the right to award the prospective lease to the Proposer who submits a proposal that will provide the best value to the City consistent with the evaluation criteria set forth herein. The City reserves the right, in its sole discretion, to accept or reject any or all proposals. The City also reserves the right to waive minor irregularities or variations to the specifications and in the bidding process, provided that such a waiver does not provide an unfair competitive advantage to the Selected Proposer.

Proposals will be evaluated in a two-step process by an evaluation committee of qualified City staff and if necessary other persons selected by the City.

In Step One, the committee will evaluate all responsive proposals based upon the information and materials contained in the proposals as submitted. The committee will score and rank all responsive proposals based on the evaluation criteria below. The three (3) highest-scored proposals shall then be deemed finalists; if necessary, the City reserves the right to expand the number of finalists in the event of ties. In Step Two, finalists will be required to provide an oral presentation by appearing before the evaluation committee or by conference telephone call. The purpose of the oral presentation is to provide the committee with an opportunity to further evaluate the finalists' proposals, which may include requesting clarification to the finalists' proposals and developing rapport. Finalists are required to make the oral presentation within seven (7) workdays after request by the City. The committee also may inspect the finalists' facilities and perform other due diligence as it may determine. The committee may then, at the committee's sole discretion, add up to ten (10) additional points to the score of any finalist to account for evaluation of the oral presentation.

The highest ranked Proposer resulting from this process may be recommended to the City Council for award if the committee is satisfied that the first-ranked proposal resulting from Step Two is sufficient for recommendation. The recommended Proposer will be required to appear before the City Council to answer questions for lease award.

Award of the lease will be based on the evaluation criteria listed below:

1. **Responsiveness to Request for Proposals (Maximum 20 points):** The extent to which a proposal clearly addresses the elements of this RFP, including the overall quality, attractiveness and thoroughness of the proposal, a complete and detailed description of plans to redevelop the Property, a complete and detailed description of plans to operate and maintain the Property, and the degree to which the proposal understands and meets the needs, goals and objectives of the City for the highest and best use of the Property.
2. **Professional Experience (Maximum 20 points):** The extent to which a proposal demonstrates the Proposer's experience and qualifications for the type of enterprise proposed for the Property. The Proposer should demonstrate sufficient experience, such as a minimum of 3-years experience in the past 5 years operating similar operations.
3. **Attractiveness of Rental Offer and Financial Projections (Maximum 20 points):** The City will consider the amount of rent offered by the Proposer and the overall financial benefit of the proposal to the City. The proposal should provide a detailed description of the Proposer's break even analysis, setting forth the point at which the business will generate enough income to cover its expenses and begin generating an income. The proposal will be evaluated on the attractiveness of, and demonstrated ability to achieve, the revenue projections for the proposed term of the lease and the likelihood of exceeding the breakeven point.

4. **Financial Capability (Maximum 20 points).** The Proposer must exhibit the necessary financial responsibility and strength to successfully redevelop the Property and operate the leasehold in accordance with the proposal and the lease terms. The Proposer must have the financial means to adequately maintain and staff the proposed operation during the term of the lease, including providing all necessary fixtures and equipment.
5. **Community/Public Service (Maximum 10 points).** The proposals will be evaluated based on the Proposer's ability to contribute to the public's and community's enjoyment of Mission Bay.
6. **Oral Presentation (Maximum 10 points).** For those proposals deemed finalists after Step One, proposals shall be evaluated based on an oral presentation.

Total Points: 100

K. **ADDITIONAL INFORMATION FROM PROPOSERS**

The City reserves the right to request information from Proposers beyond that specified in this RFP.

L. **INCURRED COSTS**

Each Proposer is solely and fully responsible for any and all costs associated with submitting a response to this RFP. The City will not be responsible for any costs incurred by Proposers in the preparation and submission of proposals.

M. **REVIEW OF PROPOSALS BY THE GENERAL PUBLIC**

All proposals received shall be considered confidential until the City Real Estate Assets Department makes a recommendation to the City Council, at which time the proposals shall become public information and available to the public for review. However, all financial statement portions of each proposal **SHALL BE** permanently considered confidential and, therefore, not available for public review.

N. **QUALIFICATION OF PROPOSAL**

THIS IS NOT A BID SOLICITATION AND THE CITY IS NOT OBLIGATED TO ACCEPT ANY PROPOSAL OR TO NEGOTIATE WITH ANY PROPOSER. THE CITY COUNCIL RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS

WITHOUT CAUSE OR LIABILITY. ALL TRANSACTIONS ARE SUBJECT TO FINAL APPROVAL BY THE MAYOR AND CITY COUNCIL.

O. NON-DISCRIMINATION NOTICE

It is the policy of the City not to discriminate against the disabled in employment or provision of services. The information contained in this Request for Proposals will be made available in alternative formats to disabled persons upon request. It is the policy of the City to encourage equal opportunity in its professional service contracts. The City endeavors to do business with firms sharing the City's commitment to equal opportunity and will not do business with any firm that discriminates on the basis of race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition, or place of birth.

P. COMPLIANCE WITH CITY'S EQUAL OPPORTUNITY CONTRACTING PROGRAM

1. Equal Opportunity Contracting. Proposer acknowledges and agrees that it is aware of, and will comply with, City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. Proposer and all of its subcontractors are individually responsible to abide by its contents.

Proposer shall comply with Title VII of the Civil Rights Act of 1964, as amended, Executive Orders 11246, 11375, and 12086, the California Fair Employment Practices Act, and any other applicable federal and state laws and regulations hereafter enacted. Proposer will not discriminate against any employee or applicant for employment on any basis prohibited by law.

Proposer shall insert the foregoing provisions in all subcontracts for any work covered by the proposal so that such provisions will be binding upon each subcontractor. Proposer agrees that compliance with EEO provisions flowing from the authority of both parties will be implemented, monitored, and reviewed by the City's Equal Opportunity Contracting Program staff.

Proposer shall submit a current Work Force Report, attached as Exhibit "C", or a current Equal Employment Opportunity (EEO) Plan, as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that Proposer will take to achieve the City's commitment to equal employment opportunities.

2. Local Business and Employment. Proposer acknowledges that the City seeks to promote employment and business opportunities for local residents and firms in all

City contracts. Proposer shall, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with the proposal from local residents and firms as opportunities occur. Proposer shall hire qualified local residents and firms whenever feasible.

Proposer understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in rejection of the proposal by the City and debarment of the Proposer from participating in City contracts for a period of not less than one (1) year.

Q. RETURN OF FAITHFUL PERFORMANCE DEPOSIT

All good faith deposits will be returned to unsuccessful Proposers within thirty days of the City's rejection of the proposal. For the Selected Proposer, the deposit will be applied to the lease deposit upon completion of negotiations and execution of the lease between City and the Selected Proposer. Should the Selected Proposer unilaterally withdraw from negotiations, the entire deposit of the Selected Proposer shall be forfeited to the City.

R. ASBESTOS DISCLOSURE

Portions of the structural components of the Property may contain asbestos. By the submittal of a proposal, Proposer acknowledges having received notice from City of the presence of such asbestos in accordance with Health and Safety Code section 25915. Proposer shall indemnify and hold City harmless from any loss or claim which may result from existence of asbestos on the Property.

S. REAL ESTATE BROKER'S COMMISSION

The City of San Diego will not pay a brokerage commission in this Request for Proposal.

T. SCHEDULE OF EXHIBITS

- Exhibit "A" – Site Location, Aerial View of the Property
- Exhibit "B" - View of the Property Exterior
- Exhibit "C" - Work Force Report
- Exhibit "D" – Credit Information Request
- Exhibit "E" – City of San Diego Lessee's Questionnaires for all Leases

The foregoing forms listed as Exhibits "A" through "E" are required to be completed. Failure to submit any of the forms listed as Exhibit "A" through "E" will result in the City deeming the proposal incomplete and non-responsive.

EXHIBIT “A” – SITE LOCATION, AERIAL VIEW OF THE PROPERTY

2688 E. Mission Bay Drive, San Diego, CA 92109

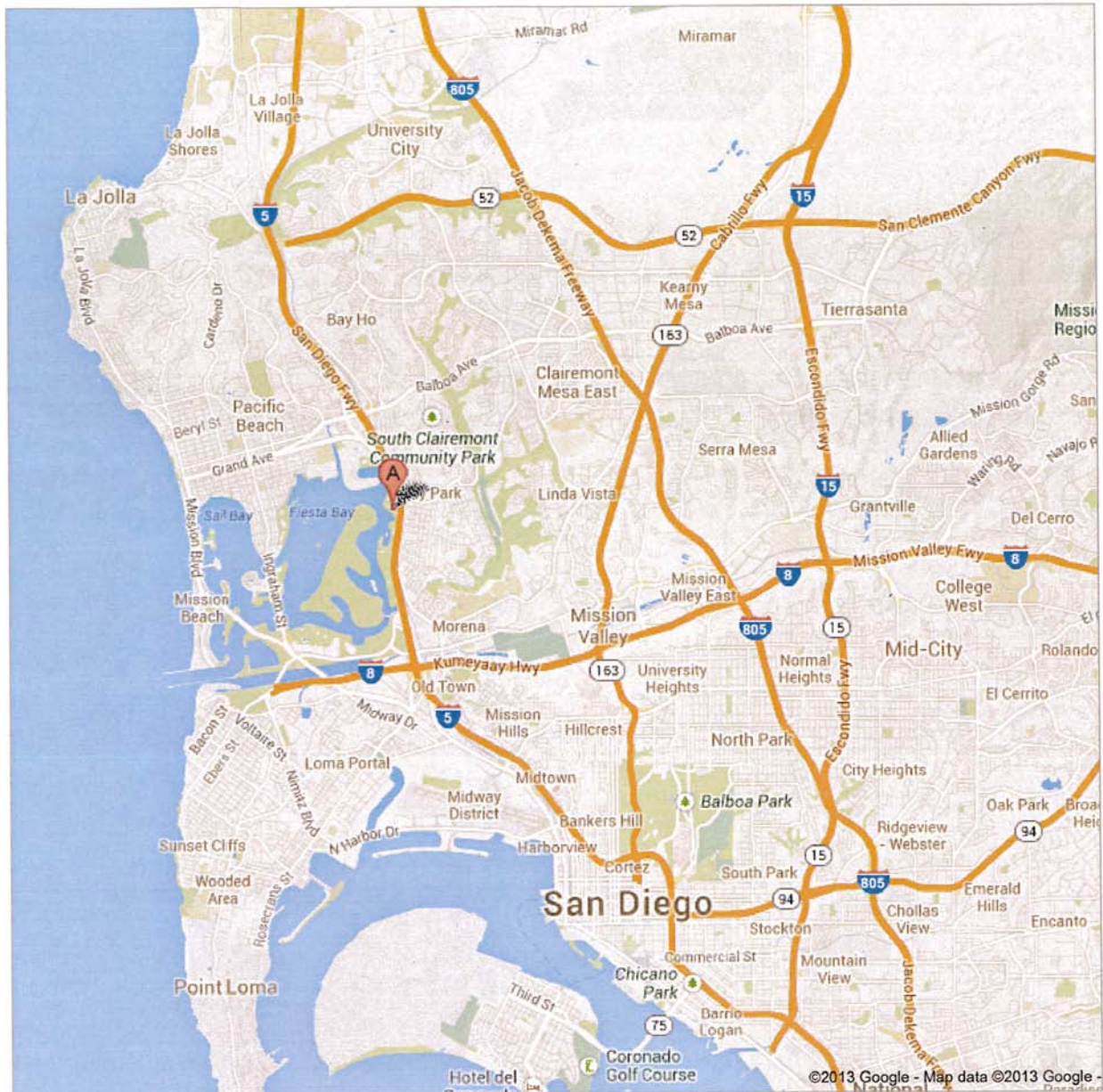


EXHIBIT "A" – SITE LOCATION, AERIAL VIEW OF THE PROPERTY



EXHIBIT "B"

View of the Property Exterior



EXHIBIT “B”

View of the Property Exterior



EXHIBIT “B”

View of the Property Exterior



EXHIBIT "B"

View of the Property Exterior



EXHIBIT "B"

View of the Property Exterior



EXHIBIT "B"

View of the Property Exterior



EXHIBIT "B"

View of the Property Interior



EXHIBIT "B"

View of the Property Interior



EXHIBIT "C" - Work Force Report



City of San Diego
EQUAL OPPORTUNITY CONTRACTING (EOC)
1010 Second Avenue • Suite 500 • San Diego, CA 92101
Phone: (619) 533-4464 • Fax: (619) 533-4474

WORK FORCE REPORT

ADMINISTRATIVE

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: _____

AKA/DBA: _____

Address (Corporate Headquarters, where applicable): _____

City _____ County _____ State _____ Zip _____

Telephone Number: (____) _____ FAX Number: (____) _____

Name of Company CEO: _____

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: _____

City _____ County _____ State _____ Zip _____

Telephone Number: _____ FAX Number: (____) _____

Type of Business: _____ Type of License: _____

The Company has appointed: _____

as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate, and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: _____

Telephone Number: (____) _____ FAX Number: (____) _____

- One San Diego County (or Most Local County) Work Force - Mandatory
- Branch Work Force *
- Managing Office Work Force

Check the box above that applies to this WFR.

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of _____
(Firm Name)

_____ , _____ hereby certify that information provided
(County) (State)

herein is true and correct. This document was executed on this _____ day of _____, 200 ____.

(Authorized Signature)

(Print Authorized Signature)

WORK FORCE REPORT – NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial														
Professional														
A&E, Science, Computer														
Technical														
Sales														
Administrative Support														
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

Exhibit “D” – Credit Information Request

I/We hereby request and authorize you to release to the City of San Diego for verification purposes, personal and business credit reports and information concerning the company/corporation/partnership and/or the officers and individuals listed below. That information may include but is not limited to:

Employment history dates, title, income, hours worked.

Banking (checking & savings) accounts of record.

Mortgage loan rating (open date, high credit, payment amount, loan balance, and payment)

Any information deemed necessary concerning a consumer credit report for my loan application.

This information is for the confidential use in compiling a credit report.

A facsimile, photographic or carbon copy of this authorization (being a facsimile, photographic or carbon copy of the signature (s) of the undersigned), may be deemed to be equivalent of the original and may be used as a duplicate original.

1. Name of Applicant
(Please print or type)
Name of Business:
(If different from “applicant”)
Telephone: ()
Name of Affiliated Business:
Telephone: ()
2. Name of Officer/Owner
Address for the last two years:
Social Security Number:
Signature:
3. Name of Officer/Owner:
Address for the last two years:
Social Security Number:
Signature:

Exhibit "D". Credit Information
CREDIT INFORMATION REQUEST

PLEASE PRINT

Date/Time: _____

COMMERCIAL CREDIT CHECK

1. Name of Business _____
2. Business Address _____ Number, Street, City, State, Zip Code
3. Phone Number _____

CONSUMER (PERSONAL) CREDIT CHECK

1. Name of Consumer _____ Last Name, First Name, Middle Initial
2. Consumer Address _____ Number, Street, City, State, Zip Code
3. Phone Number
4. Consumer Social Security Number __ __ __/ __ __/ __ __ __

REAL ESTATE ASSETS DEPARTMENT INFORMATION

1. Requestor Name: _____
2. Job Order No. _____
3. Job Title: _____
4. Supervisor Approval: _____

Exhibit “E” – City of San Diego Lessee’s Questionnaires for all Leases

[TO FOLLOW BEHIND THIS PAGE]

CITY OF SAN DIEGO
LESSEE'S QUESTIONNAIRE FOR ALL LEASES

Pursuant to the City of San Diego City Charter Section 225: "Mandatory Disclosure of Business Interest," before the City will process requests to Lease, all information requested in this Questionnaire must be completed by the proposed Lessee.

All information furnished in this Questionnaire must be complete and accurate. Omissions, inaccuracies, or misstatements may cause the rejection and/or subsequent revocation of the City's Lease.

In submitting this Questionnaire, the proposed Lessee completing the Questionnaire authorizes the City to make any inquiry or investigation it believes necessary to substantiate or supplement the information furnished in the Questionnaire, and authorizes others to release such information to the City.

Exact name of proposed Lessee:

Date this Questionnaire completed:

The information furnished in and with this Questionnaire is true, complete, and correct to the best of my knowledge.

Signature: _____ Title: _____

Thank you for taking the time to complete the Questionnaire. Lessees may contact Real Estate Assets if they have any questions. Please return the completed Questionnaire with any additional information or documents to:

REAL ESTATE ASSETS DEPARTMENT
1200 THIRD AVENUE STE. 1700
SAN DIEGO, CA 92101
TEL.: (619) 236-6020 FAX: (619) 236-6706

This Questionnaire contains 14 pages.

PROPOSED LESSEE

1. Name of proposed Lessee exactly as it will appear on the actual tenancy document:

2. Mailing Address of proposed Lessee for purposes of notice or other communication related to the proposed tenancy:

Telephone No.: _____
E-mail Address: _____ Fax. No.: _____

3. Billing Address (*only if different from Mailing Address*):

Telephone No.: _____
Fax. No.: _____

4. Proposed Lessee intends to operate as a:
Sole Proprietorship (); Partnership (); Corporation ();
Limited Liability Company (); Other

PARTNERSHIP STATEMENT

If the proposed Lessee is a partnership, please answer the following:

1. Date of Organization:

2. General Partnership () Limited Partnership ()
Other () Explain

3. Statement of Partnership recorded: Yes () No ()

Date	Book	Page	County
------	------	------	--------

4. Has the partnership conducted business in San Diego County?

Yes () No () If so, when?

If so, where?

5. Name, address, and partnership share of each general and limited partner. If a general partner is another partnership, a corporation, or a limited liability company (LLC), please complete separate pages 3, 4 and 6; or 6, as appropriate for such entity (type proposed Lessee name [from page 2] on the top of each page for identification purposes). If a limited partner holding a 10% or greater interest is another partnership, a corporation, or an LLC pages 3; or 4 and 5; or 6 must also be completed for such entity (type proposed Lessee name [from page 2] on the top of each page).

General/Limited	Name	Address	Share %

6. Attach a complete copy of the Partnership Agreement. If a Partnership Agreement has been previously submitted, a new Partnership Agreement need be submitted only if the Partnership Agreement on file with the City is no longer current.

CORPORATION STATEMENT

If proposed Lessee is a corporation, please answer the following:

1. Type of corporation: C () Subchapter S ()

2. When incorporated? _____

3. Where incorporated? _____

4. Is the corporation authorized to do business in California? Yes () No ()
If so, as of what date? _____

5. The corporation is held:
a. Publicly () Privately ()
b. If publicly held, how and where is the stock traded?

-
6. Please list the following:

	<u>Authorized</u>	<u>Issued</u>	<u>Outstanding</u>
a. Number of voting shares:	_____	_____	_____
b. Number of nonvoting shares:	_____	_____	_____
c. Number of shareholders:			_____
d. Value per share of Common Stock:			
		Par	\$ _____
		Book	\$ _____
		Market	\$ _____

7. Please furnish the name, title, address, and the number of voting and nonvoting shares of stock owned by each officer and, in addition, the same information for each stockholder owning more than 10% of any class of stock.

Name: _____

Title: _____

Address: _____

No. of Shares: _____

Name:

Title:

Address:

No. of Shares: _____

Name:

Title:

Address:

No. of Shares: _____

Name:

Title:

Address:

No. of Shares: _____

Additional page(s) may be added if needed to complete list of stockholders [type proposed Lessee name (from page 2) on the top of each page].)

8. Attach complete copies of the Articles of Incorporation (and any Certificate(s) of Amendment thereto, as the case may be) of the Corporation, and the Bylaws of the Corporation (and any Amended and Restated Bylaws, as the case may be), and any other applicable Corporate documents.

Any partnership, corporation, or LLC owning more than a 10% ownership interest must also complete separate pages 3; or 4 and 5; or 6, as appropriate for each entity (type proposed Lessee name [from page 2] on the top of each page for identification purposes). Also, furnish the financial data for such partnership, corporation, or LLC, as required on page 7. If there is an ownership chain of additional partnerships, corporations, or LLCs, the above requirements extend to each such entity having either: (1) a 10% or greater direct, indirect, beneficial ownership, or membership interest in the proposed Lessee; or (2) effective control of the proposed Lessee, regardless of the percentage of ownership or membership interest.

LIMITED LIABILITY COMPANY STATEMENT

If the proposed Lessee is an LLC, please answer the following:

1. Date of Organization: _____

2. Where Organized: _____

3. Is the Company authorized to do business in California?
 - a. Yes () No ()
 - b. If so, as of what date? _____

4. Has the Company conducted business in San Diego County?
 - a. Yes () No ()
 - b. If so, when? _____
 - c. If so, where? _____

5. Please furnish the name, address, and membership share held by each manager and officer, and each membership share held by each manager and officer, and each member owning more than a 10% membership interest. If a member is a partnership, corporation, or another LLC, please complete separate pages 3; or 4 and 5; or 6, as appropriate for such entity (type proposed [Sub]Lessee name [from page 2] on the top of each page.

Manager/Officer/ Member			Share %

6. Attach a complete copy of the Operating Agreement. If an Operating Agreement has been previously submitted, a new Operating Agreement need be submitted only if the Operating Agreement on file with the City is no longer current.

FINANCIAL AND OTHER BACKGROUND INFORMATION

FINANCIAL STATEMENT

Lessee, general partners of Lessee, owner-corporation of Lessee, members of Lessee owning more than a 10% membership interest, and any person or business entity guaranteeing the performance of Lessee **must** attach a complete report, prepared in accordance with good accounting practice, reflecting current financial condition. The report **must** include a balance sheet **and** annual income statement. The person or entity covered by the report must be prepared to substantiate all information provided.

OTHER INFORMATION:

Each Lessee, each general partner of Lessee, each owner-corporation of Lessee, each owner-corporation of Lessee, each member of Lessee owning more than a 10% membership interest, any person or business entity guaranteeing the performance of Lessee, any person or entity owning more than a 10% interest of Lessee, and any guarantor of Lessee must answer the following questions:

1. **Surety Information** – Has a surety or bonding company ever been required to perform on the default of any of the individuals or entities?
 - a. Yes () No ()
 - b. If yes, please attach a statement naming the surety of bonding company, date, amount of bond, and the circumstances surrounding said default and performance.

2. **Bankruptcy Information**- Have any of the individuals or entities ever been adjudicated bankrupt or are any presently a debtor in a pending bankruptcy action?
 - a. Yes () No ()
 - b. If yes, please give dates, court jurisdiction, and amount of liabilities and assets.

3. **Pending Litigation** - Are any of the individuals or entities presently a party to ANY pending litigation?
 - a. Yes () No ()
 - b. If yes, please provide detailed information for each action.

4. **Claims, Liens, or Judgments** - Are any of the individuals or entities now subject to any outstanding claims, liens, or judgments?
Yes () No ()
 - b. If yes, please provide detailed information for each claim, lien, or judgment.

REFERENCES FOR PROPOSED LESSEE

Please list four persons or firms with whom you have conducted business transactions during the past three years. Two of the references must have knowledge of your debt payment history, with at least one being a financial institution. Two of the references must have knowledge of your business experience.

REFERENCE NO. 1

Name: _____

Firm: _____

Title: _____

Address: _____

Telephone: _____

Nature and magnitude of purchase , sale, loan, business, association, etc.:

REFERENCE NO. 2

Name: _____

Firm: _____

Title: _____

Address: _____

Telephone: _____

Nature of magnitude of purchase, sale, loan, business, association, etc.:

_____ 8 _____

REFERENCE NO. 3

Name: _____

Firm: _____

Title: _____

Address: _____

Telephone: _____

Nature and magnitue of purchase, sale, loan, business, association, etc.:

REFERENCE NO. 4

Name: _____

Firm: _____

Title: _____

Address: _____

Telephone: _____

Nature and magnitue of purchase, sale, loan, business, association, etc.:

CITY OF SAN DIEGO PERSONAL DESCRIPTION AND RELEASE

PLEASE NOTE: All partners, both general and limited; all stockholders owning more than 10% of any class of stock of corporations; all members of a limited liability company; and sole proprietors requesting to lease, must each complete this page before the tenancy request can be processed.

(You may reproduce and use copies of this page. If necessary)

The following personal information is required to initiate a credit investigation. The business and personal reputation of principals, partners, and members will be considered in qualifying Lessees or in consenting to Sublessees.

First, Middle, & Last Name	_____
Date of Birth	_____
Place of Birth	_____
Social Security Number	_____
Driver's License Number/State	_____
Home Address	_____

Previous Address	_____

Home Telephone No.	_____
Employer	_____
Occupation	_____
Business Address	_____
Business Telephone No.	_____
Business Fax No.	_____

The City is hereby authorized to request a credit report and other information covering my financial and business history.

Date _____ Signed _____

Print or type exact name of proposed Lessee from page 2 of Questionnaire:

METHOD OF OPERATION

Please describe your proposed business operation on the property to be leased. Discuss any optional services and uses which you propose to provide.

PROPOSED METHOD OF FINANCING
LEASEHOLD DEVELOPMENT

Describe the method of financing for the Leasehold purchase or any new or additional development on the leasehold. Include a schedule of approximate dates when construction of each significant improvement is expected to be commenced and completed.

ESTIMATE OF GROSS RECEIPTS

Please show the best estimate of the average annual gross sales for each significant use or service, and for each significant optional use or service which the Lessee and its Sublessees (if any) plan to conduct on or from the property. This data will be used by the City to analyze the proposed lease. The time periods shown should not be assumed to necessarily represent the term of a lease that may be granted or consented to by the City.

Average annual gross sales for each proposed significant use during each of the first ten operating years:

Year of Operation	Uses (Identify Each Use)				
1	\$	\$	\$	\$	\$
2					
3					
4					
5					
6					
7					
8					
9					
10					

EXPERIENCE STATEMENT

Please describe in detail the duration and extent of your business experience, with special emphasis upon experience with the type of business which you propose to conduct on City property. Also state in detail the pertinent experience of the persons who will be directly involved in development and management of the business.