

UNITED STATES DEPARTMENT OF THE INTERIOR

National Park Service

Independence National Historical Park

Commercial Use Authorization

1. **Holder:** Philly Ducks

Name: Steve Dutcher
Organization: Philly Ducks
Address: 111 S. Independence Mall East
Philadelphia, PA 19106
Telephone: 215-227-3825

CUA#: CUA-NER-INDE-5400-093
Park Alpha Code: INDE
Type of Use: Commercial Services
Date Authorization Approved:
Reviewed:
Expires: July 31, 2010

2. The holder is hereby authorized to pick up and discharge tour vehicle passengers in the loading/unloading zones specifically designated as such with signage for vehicle type by the City of Philadelphia. The area must be restored to its original condition at the end of the authorization.

3. The authorization begins: August 1, 2008

4. The authorization expires: July 31, 2010

5. **SUMMARY OF AUTHORIZED ACTIVITY:** To pick up and discharge tour vehicle passengers on National Park Service (NPS) property in designated loading/unloading zones within the boundaries of Independence National Historical Park (INHP), Philadelphia, Pennsylvania.

X **Out- of- Park:** The commercial services described above must originate and terminate outside of the boundaries of the park area. This authorization does not authorize the holder to advertise, solicit business, collect fees, or sell any goods or services within the boundaries of the park area.

In-Park: The commercial services described above must originate and be provided solely within the boundaries of the park area.

6. Authorizing legislation or other authority: Section 418, P.L. 105-391 (16 USC 5966).

7. NEPA Compliance: CATEGORICALLY EXCLUDED

8. APPLICATION FEE : \$ 150.00

9. LIABILITY INSURANCE: Required x Amount \$1,000,000

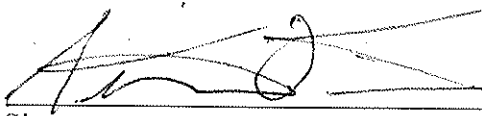
10. COST RECOVERY: Required x Amount \$3,000.00

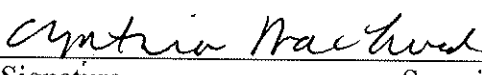
11. FACILITY USE FEE: Not Required X

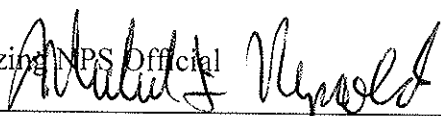
12. ANNUAL GROSS REVENUE: \$ 160,522 (Actual based upon prior year receipts)

ISSUANCE of this authorization is subject to the General Conditions below, and the Special Conditions contained in Appendix I. The undersigned hereby accepts this authorization subject to the terms, covenants, obligations, and reservations, expressed or implied herein.

12. **Signatures.**

Authorization Holder  GENERAL MANAGER 7-14-08
Signature Title Date

Authorizing NPS Official  7-29-08
Signature Superintendent Date

Authorizing NPS Official  **Regional Director** **AUG 15 2008**
(additional if required) Signature Title Date

GENERAL CONDITIONS OF THIS AUTHORIZATION

1. The holder is prohibited from knowingly giving false information. To do so will be considered a breach of conditions and be grounds for revocation: [RE:36 CFR 2.32(a)(3)].
2. The holder shall exercise this privilege subject to the supervision of the park area Superintendent. The holder shall comply with all applicable laws and regulations of the area and terms and conditions of the authorization. The holder must acquire all permits or licenses of State or local government, as applicable, necessary to provide the services described above, and, must operate in compliance with all applicable Federal, State, and local laws and regulations, including, without limitation, all applicable park area policies, procedures and regulations. The commercial services described above are to be provided to park area visitors at reasonable rates and under operating conditions satisfactory to the park area superintendent.
3. This authorization is issued upon the express condition that the United States, its agents and employees shall be free from all liabilities and claims for damages and/or suits for or by reason of any injury, injuries, or death to any person or persons or property of any kind whatsoever, whether to the person or property of the (holder), its agents or employees, or third parties, from any cause or causes whatsoever while in or upon said premises or any part thereof during the term of this authorization or occasioned by any occupancy or use of said premises or any activity carried on by the (holder) in connection herewith, and the (Holder) hereby covenants and agrees to indemnify, defend, save and hold harmless the United States, its agents, and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses however occurring or damages growing out of the same.
4. Holder agrees to carry general liability insurance against claims occasioned by the action or omissions of the holder, its agents and employees in carrying out activities and operations under this authorization. The policy shall be in the amount of \$1,000,000 and underwritten by a United States company naming the United States of America as additional insured. Holder agrees to have on file with the park copies of the above insurance with the proper endorsements.
5. Cost incurred by the park as a result of accepting and processing the application and managing and monitoring the authorization activity will be reimbursed by the holder. Administrative costs and estimated costs for activities on site must be paid when the authorization is approved. If any additional costs are incurred by the park, the holder will be billed at the conclusion of the authorization.
6. Benefit - Neither Members of, nor Delegates to Congress, or Resident Commissioners shall be admitted to any share or part of this authorization or derive, either directly or indirectly, any pecuniary benefit to arise therefrom: Provided, however, that nothing herein contained shall be construed to extend to any incorporated company, if the authorization be for the benefit of such corporation.
7. This authorization may not be transferred or assigned without the written consent of the park area

Superintendent.

8. This authorization may be terminated upon breach of any of the conditions herein or at the discretion of the park area Superintendent.

9. The holder is not entitled to any preference to renewal of this authorization except to the extent otherwise expressly provided by law. This authorization is not exclusive and is not a concession contract.

10. The holder shall not construct any structures, fixtures or improvements in the park area. The holder shall not engage in any groundbreaking activities without the express, written approval of the park area superintendent.

11. The holder is to provide the park area superintendent upon request (and, in any event, immediately after expiration of this authorization) a statement of its gross receipts from its activities under this authorization and any other specific information related to the holder's operations that the park area superintendent may request, including but not limited to, visitor use statistics and resource impact assessments.

12. The holder is to maintain an accounting system under which its accounts can be readily identified within its system of accounts classification. This accounting system must be capable of providing the information required by this authorization. The holder grants the United States of America and the Government Accountability Office access to its books and records at any time for the purpose of determining compliance with the terms and conditions of this authorization.

SPECIAL CONDITIONS

1. Commercial tour vehicles covered by this authorization are authorized to load and unload passengers in the designated passenger loading zone marked by the City of Philadelphia. The designated zone is for loading and unloading of passengers only. Vehicles are not permitted to park in the zone for extended periods of time.
2. Commercial tour vehicles covered by this authorization may occupy ONLY the spaces specifically designated for their vehicles regardless of the availability of other spaces in the loading zones.
3. Vehicles covered by this authorization must be able to load and unload passengers safely onto the sidewalk or the rear of the vehicle.
4. Vehicles may not idle for more than 5 minutes while staging in the loading/unloading zone.
5. Tour sales conducted in the zones covered by this authorization, are to be conducted in accordance with the provisions of SECTION 1. Title 9 of the Philadelphia Code and the License Agreement entered into between the Holder and the Independence Visitor Center Corporation (IVCC) if applicable. No sales are to be conducted on National Park Service property with the exception of the Holder's sales kiosk in the IVC.
6. Proactive, tour vehicle personnel initiated solicitation is prohibited. Tour vehicle staff may respond to visitor inquiries and direct visitors onto the vehicle or to their sales kiosk for ticket sales and additional information.
7. No permanent or temporary fixtures or furnishings (tables, chairs, tents, etc.) may be set up in the designated passenger loading zones covered by this authorization.
8. The sale of souvenirs or display of signs or marketing materials is not authorized in the zones covered by this Authorization or elsewhere in the park. Souvenir photos may be taken, however sales transactions are to take place off of park property.
9. A maximum of 4 persons from each licensed tour vehicle carrier covered by this authorization may occupy the space in the loading zone assigned to their vehicle. Said personnel may not occupy vacant spaces or those spaces

reserved for other vehicles; they are to assist only with the loading and unloading of passengers, and may not engage in soliciting business or distributing marketing materials. Visitor inquiries regarding tour operations shall be directed to the sales desks in the IVC.

10. Accidents, injuries, fires and criminal acts occurring on park property shall be promptly reported to the park's Resource & Visitor Protection Division. This can be done in person or by calling 215-597-7077.

11. Authorization holders may not engage in any activity which:

- May cause injury or damage to park resources: or
- Unreasonably interfere with the interpretive, visitor service or other program activities in the park, or
- Present a clear and present danger to public health and safety, or
- Substantially impair the operation of public facilities or services of NPS concessionaires or contractors, or
- Impair or derogate the values, resources, or mission of the NPS.

12. Company staff are to be trained on the terms and conditions of this authorization. A copy of the authorization is to be on site at all times.

13. Amplified sound may not be projected from vehicles while in the loading zone.

14. Authorization holders are responsible for properly disposing of all refuse deposited in their assigned loading zones. Any costs incurred by INHP to remediate litter problems will be billed to the authorization holder.

15. Prior to issuance of this authorization, applicant must provide INHP with:

- A copy of the license to operate issued by the City of Philadelphia.
- A certificate of liability insurance in accordance with #4 of the General Terms of this authorization.
- A copy of the License Agreement entered into with the IVCC (if applicable).
- Revenue information requested in Section 12 of Form 10-114 (CUA)

16. Required reports are to be submitted to:

Special Events Office
Independence National Historical Park
143 S. Third St.
Philadelphia, PA 19106

17. Costs

- A. Administrative Charge: \$150.00. Non-refundable, and due with submission of authorization.
- B. Monitoring Charge: \$3,000 per loading zone allocation. Due within 30 days of the date of issuance of the authorization.

18. COMPLIANCE WITH SOLICITATION PROVISIONS

National Park Service regulations do not permit the solicitation or sale of merchandise or services on park property. Special conditions numbers 5, 6 and 7 of the Commercial Use Authorizations (CUAs) issued to tour vehicle operators define the limits of this type of activity. It is the responsibility of each tour operator to train their employees on these provisions of the CUA. Park law enforcement rangers will issue violation notices to tour operators who violate the terms of the CUA. The violation notice will specify the date, time, breached condition, and offending employee's name. Following is the administrative action which will be taken for solicitation violations issued during the term of the CUA:

First Offence: Warning

Second Offence: 1 – 3 day suspension of CUA privileges

Third Offence: 3 - 5 day suspension of CUA privileges

Fourth Offence: Termination of CUA

The Authorization Holder will have 15 days from the date of issuance of the violation notice to appeal. Appeals are to be made in writing to Ian Crane, Chief Ranger, INHP.

20. CONTACTS

To report emergencies to National Park Service law enforcement office call: 215-597-7077

For all issues regarding authorization terms and conditions contact:

Frank Eidmann
Special Events Office
Independence National Historical Park
143 S. Third St.
Philadelphia, PA 19106

Phone: 215-597-9205

Cell: 215-435-4372

Fax: 215-597-0042

Email: frank_eidmann@nps.gov

**Independence National Historical Park
National Park Service
Commercial Use Authorization
ANNUAL SURVEY**

Permittee Name: Steve Dutcher

Company Name: Philly Ducks

Address: 111 S. Independence Mall East

Expiration Date: July 31, 2010

CUA Number: NER-INDE-5400-093

1. What service do you provide to the park visitor?

Duck Boat Tours

2. How many visitors do you serve per year within the park area?

3. How much time do you or your customers spend in the park (days/hours)?

4. Is the park or its resources a primary or exclusive destination?

5. Is the park only incidental to the service you provide? Yes No

If the answer is yes, why? _____

What percent of the activity actually takes place in the park overall?

6. What are the annual gross receipts generated as a result of being in the park?

\$ _____

7. How is the answer to #6 calculated?

\$ _____

SIGNATURE: _____

Date: _____