



Caring for Our Coast

♦ ♦ ♦
Gary Jones
Director

Amy M. Caves
Deputy Director

Carol Baker
Deputy Director

September 20, 2022

TO: Beach Commission
Ull for CB/GJ
FROM: Gary Jones, Director

SUBJECT: SPECIAL BEACH COMMISSION AGENDA – September 20, 2022

Enclosed is the agenda for your virtual Special Commission meeting of September 20, 2022, along with the reports related to Agenda Item 3A. The meeting will take place online via Zoom. Information about how to access the meeting online and/or by phone will be emailed to each of you and publicly posted prior to the meeting.

Please contact Donalyn Anderson at (424) 525-7873 if you have any questions or need additional information.

GJ:CML:da

Enclosures



County of Los Angeles
**Beach
Commission**

13837 Fiji Way, Marina del Rey, CA 90292
Phone: (424) 526-7900 Fax: (310) 822-0119
Web Page: <http://beaches.lacounty.gov>



AGENDA

Special Meeting of the Beach Commission
September 20, 2022
Virtual Meeting
9:00 a.m.

NOTICE: This meeting is being held via the Zoom platform.

Join online: beaches.lacounty.gov/watch-beach-commission-meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86455742394>

Or iPhone one-tap:

US: +14086380968,,86455742394# or +16694449171,,86455742394#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 408 638 0968 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or
+1 301 715 8592 or +1 312 626 6799 or +1 646 876 9923

Webinar ID: 864 5574 2394

International numbers available: <https://us02web.zoom.us/j/86455742394>

1. CALL TO ORDER

2. AUTHORITY TO CONTINUE HOLDING MEETINGS BY TELECONFERENCE

The Beach Commission meeting is continuing to be held via teleconference consistent with the Board of Supervisors' findings on August 30, 2022, that 1) in accordance with Assembly Bill (AB) 361 Section 3 (e)(3), California Government Code Section (54953 (e)(3), that it reconsidered the circumstances of the State of Emergency due to the COVID-19 pandemic and that the State of Emergency remains active; and 2) that local officials continue to recommend measures to promote social distancing

3. NEW BUSINESS

A. Concession Agreement Option/Gladstones Site

(ACTION)

Cris B. Liban, Chair

*Robert Bartlett
Michael Bustamante
Rosi Dagit
Teresa Furey*

*Angela Mooney-D'Arcy
Sharon Musa
Damon K. Nagami
Anthea Raymond*

*Bruce Saito
Kurt Weideman*

4. COMMISSIONER COMMENTS

5. COMMUNICATION FROM THE PUBLIC

Note: Members of the public who call into the meeting who wish to speak during public comment must provide their first and last name, email address, and topic or item number they would like to speak about.

6. NEXT MEETING DATE & LOCATION

October 26, 2022 9:30 a.m. / location to be determined.

PLEASE NOTE:

1. The Los Angeles County Board of Supervisors adopted Chapter 2.160 of the Los Angeles Code (Ord. 93-0031 § 2 (part), 1993), relating to lobbyists. Any person who seeks support or endorsement from the Beach Commission on any official actions must certify that he/she is familiar with the requirements of this ordinance. A copy of the ordinance can be provided prior to the meeting and certification is to be made before or at the meeting.
2. The agenda will be posted on the Internet and displayed at the following locations at least 72 hours preceding the meeting date:

Department of Beaches and Harbors' Website Address: marinadelrey.lacounty.gov

Department of Beaches and Harbors
Administration Building
13837 Fiji Way
Marina del Rey, CA 90292

Marina del Rey Information Center
4701 Admiralty Way
Marina del Rey, CA 90292

Burton Chace Park Community Room
13650 Mindanao Way
Marina del Rey, CA 90292

Lloyd Taber – Marina del Rey Library
4533 Admiralty Way
Marina del Rey, CA 90292

Si necesita asistencia para interpretar esta informacion llame al (424) 526-7777.

ADA ACCOMMODATIONS: If you require reasonable accommodations or auxiliary aids and services such as material in alternate format or a sign language interpreter, please contact the ADA (Americans with Disability Act) Coordinator at (424) 526-7752 (Voice) or (TTY/TDD) users, please call the California Relay Service at 711. The ADA coordinator may be reached by email at rstassi@bh.lacounty.gov.



Caring for Our Coast

♦ ♦ ♦
Gary Jones
Director

Amy M. Caves
Deputy Director

Carol Baker
Deputy Director

September 20, 2022

TO: Beach Commission
UL for CB/AJ
FROM: Gary Jones, Director

SUBJECT: ITEM 3A – CONCESSION AGREEMENT OPTION/GLADSTONES SITE

Option to enter into a Concession Agreement with PCH Beach Associates, LLC, to demolish the existing restaurant and reconstruct, manage, and operate a new Frank Gehry-designed/Wolfgang Puck-operated restaurant facility at County-operated Will Rogers State Beach. (Endorsement requested.)

GJ:CB:da



September 27, 2022

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL OF OPTION TO ENTER INTO CONCESSION AGREEMENT WITH PCH
BEACH ASSOCIATES, LLC, TO DEVELOP, MANAGE, AND OPERATE A FRANK
GEHRY-DESIGNED/WOLFGANG PUCK-OPERATED RESTAURANT FACILITY AT
COUNTY-OPERATED WILL ROGERS STATE BEACH
(THIRD DISTRICT) (3 VOTES)**

SUBJECT

Request for approval of an Option to enter into a Concession Agreement with PCH Beach Associates, LLC, to demolish the existing restaurant and reconstruct, manage, and operate a new Frank Gehry-designed/Wolfgang Puck-operated restaurant facility at County-operated Will Rogers State Beach. Exercise of the Option is contingent upon Concessionaire's fulfillment of the conditions set forth therein.

IT IS RECOMMENDED THAT THE BOARD:

1. Find that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to a Class 2, Replacement or Reconstruction, categorical exemption as defined in Section 15302 of CEQA (Public Resources Code section 21000 et seq.), the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387) and the Environmental Document Reporting Procedures and Guidelines for the County.
2. Approve and authorize the Chair of the Board to: (i) execute the Option in substantially the form attached as Attachment "A" ("Option Agreement" or "Option").
3. Approve and authorize the Chair of the Board, upon confirmation by the Director of the Department of Beaches and Harbors ("Director") that the Concessionaire has fulfilled and satisfied the conditions contained in the Option, to enter into and execute three (3) copies of each of the following: (a) Concession Agreement in the form of Exhibit "A" attached to the Option Agreement; and (b) a Memorandum of Concession Agreement as referenced

in the Concession Agreement, in form approved by County Counsel to be recorded against the Property.

4. Delegate authority to the Director to negotiate and execute an extension to the current concession agreement with Sea View Restaurants, Inc. (or other short-term replacement agreement to ensure continued operation of the existing Gladstone's restaurant) for a period not to exceed three years, until Concessionaire is able to begin developing the Property as more fully described below.
5. Authorize the Director to execute and deliver such other ancillary documentation (including, without limitation, an Estoppel Certificate) as is necessary and acceptable to Director in connection with the Option Agreement and/or the Concession Agreement in order to effectuate the transactions contemplated thereby.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On April 3, 2018, your Board delegated authority to the Director of Beaches and Harbors ("Director") to enter into an Exclusive Negotiating Agreement ("ENA") to negotiate the material terms of the Option to enter into the Concession Agreement with Concessionaire". Concessionaire was the top-ranked proposer in response to the Request for Proposals for Concession Services at County-Operated Will Rogers State Beach issued on April 23, 2017 ("RFP"), to develop, construct, manage, and operate a new Frank Gehry-designed, Wolfgang Puck-operated restaurant at Will Rogers State Beach, located at 17300 Pacific Coast Highway in the City of Los Angeles ("Property"). This project will be the first ever ground-up Frank Gehry-designed/Wolfgang Puck operated restaurant in the world. It is anticipated that the restaurant will receive extensive U.S. and international earned media coverage when open because of the collaboration between these two internationally recognized icons.

Implementation of Strategic Plan Goals

The recommended actions are consistent with the County's Strategic Plan Goal II, Foster Vibrant and Resilient Communities, by promoting public-private partnerships, supporting vibrant communities, driving economic and workforce development in the County, supporting the wellness of our community, and making environmental sustainability our daily reality. The recommended actions are also consistent with the County's Strategies II.1.3, Coordinate Workforce Development, by requiring the project to engage local workforce and promote job opportunities, and Strategy II.3.5, Support a clean, flexible, and integrated multi-modal transportation system that improves mobility, by incorporating multi-modal transportation design into the project, and Strategy II.2.2, Expand Access to Recreational and Cultural Opportunities, by providing access for all County residents to high-quality food service and beach recreation.

FISCAL IMPACT/FINANCING

The proposed Concession Agreement reflects the County's current market rate Percentage Rents Rates for all relevant categories, subject to adjustment as provided in the proposed Concession Agreement. The grant of the Option will produce an option fee of \$100,000 to DBH, which revenue will be recognized in Fiscal Year 2022-23 as one-time over-realized revenue.

The Department has obtained an analysis from its economic consultant confirming that the revenues and rents payable to the County pursuant to the Concession Agreement, are at least equivalent to fair market value.

Costs of consultants and DBH's Director, Deputy Director and County Counsel involved in the negotiation and development of the Option and Concession Agreement are being reimbursed by the Concessionaire.

The Department anticipates no significant impact to the FY2022-23 Operating Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The proposed project is a new restaurant that will replace the existing restaurant, Gladstone's, located on Will Rogers State Beach, at 17300 Pacific Coast Highway in the City of Los Angeles, between the Pacific Ocean and Pacific Coast Highway. The existing facility consists of a 10,183 square-foot main restaurant building, 1,508 square-foot secondary restaurant building, a 400 square-foot accessory building, and a 7,900 square-foot patio and public viewing deck. The existing restaurant includes a total existing seating capacity of 707, appurtenant facilities, and a 212-space parking facility for both restaurant and beach parking.

Will Rogers State Beach is owned by the State of California, operated by the County, pursuant to a management agreement and located in the City of Los Angeles. The California Department of Parks and Recreation has approved the form of the proposed Concession Agreement.

Concessionaire's proposed project will involve demolition of all existing improvements at the site, replacing them with a new, approximately 12,500 square foot, 450-seat restaurant, and a new 2,700 square foot, 100-seat public viewing deck containing a 700 square-foot food and beverage service station. The proposed public viewing deck would be open to the public (i.e., for customers and non-customers of the restaurant) and would operate separately from the restaurant. In addition, Concessionaire will repave and reconfigure the existing public beach and restaurant parking lot and add a bus turnaround for Metro and Big Blue Bus Lines.

If the Option is approved, the Concessionaire must thereafter obtain all regulatory approvals and exercise the Option for the Concession Agreement within 18 months following grant of the Option; however, if the Concessionaire is delayed in satisfying the conditions to exercise the Option despite its diligent efforts, the Concessionaire may request up to five additional periods of six months each, each (other than the first six-month extension) accompanied by payment of an extension fee to County. Approval of the Option is without prejudice to the

County's full exercise of its regulatory authority in the consideration of the land use entitlements required for the possible exercise of the Option.

Existing Concession Agreement and Operation

The County's current concession agreement with Sea View Restaurants, Inc., for the operation of the Gladstone's restaurant at the site commenced on November 1, 1997. Its initial term was set to expire on October 31, 2017 but was extended for an additional five years through October 31, 2022. The proposed actions set forth herein would delegate authority to the Director to negotiate an extension of the current term (or other short-term replacement agreement) to provide continuous service and safe beach access for a period not to exceed three years (subject to the County's right to terminate the existing concession agreement upon providing ninety days (90) months prior notice) until the new Concessionaire, is able to commence developing the Property.

The proposed Exclusive Negotiating Agreement, Option Agreement and Concession Agreement are authorized by Government Code 25907. Pursuant to Public Resources Code Section 5080.33, the State approved and consented to the proposed Option and Concession Agreements on July 12, 2022.

At its Special Meeting of September 20, 2022, the Beach Commission [endorsed/rejected] the Department's recommendation to approve the Option and the Concession Agreement for the Property in the form attached. County Counsel has approved the documents as to form. An overview of the basic terms of the Option and Concession Agreements follows.

Essential Option and Concession Agreement Terms

- I. Option
 - a. Option Period plus extensions/fees, to extend exercise of Option
 - i. Option Period: 18 months plus 5 additional 6-month extensions
 - ii. 1st 6-month Extension: No Charge
 - iii. 2nd 6-month Extension: \$50,000
 - iv. 3rd 6-month Extension: \$120,000
 - v. 4th 6-month Extension: \$140,000
 - vi. 5th 6-month Extension: \$140,000
 - b. Conditions for Concessionaire to satisfy to exercise Option
 - i. All regulatory approvals to be obtained
 - ii. Director's approval of Schematics and Preliminary Plans
 - iii. Director's approval of final Plans and Specs
 - iv. Permit-ready plans

- v. Satisfactory evidence of financing for the entire project
- vi. Provide Operating Agreement of Concessionaire showing all members of Concessionaire and their respective ownership interests
- vii. Evidence of availability of all necessary utilities and approvals from appropriate governmental agencies
- viii. Evidence of complete payment of all County costs for Option and Concession Agreement
- ix. Not less than 45 days prior to Concessionaire's delivery of notice to exercise the Option, delivery of final site plan to Director for Director's approval.
- x. Cost breakdown update consistent with Line Item Budget, as approved by Director
- xi. Evidence of Concessionaire's executed agreement with Frank Gehry (including his firm Gehry Partners, LLC) for concept and basic architectural design with Frank Gehry as the "principal designer" for the design development phase, and for right for County to advertise in all media that Project is "designed by Frank Gehry."

II. Concession Agreement

a. Scope of Work

- i. Demolition of existing Gladstone's building.
- ii. Construction of a new restaurant with approximately 450 seats, with exterior and interior dining, and 100-seat public deck/boardwalk that will include restrooms, a separate outlet offering reasonably priced food and beverages and other amenities as approved by the Director in its reasonable discretion.
- iii. Redevelopment of: 1) parking lot with bus turnaround; 2) vehicle access from parking lot to beach for maintenance or emergency use; 3) ADA-compliant ramp access to the beach (if required); 4) satisfaction of all conditions imposed by Big Blue Bus, Metro and Caltrans on and off-site.
- iv. Minimum Cost for entire Scope of Work shall not be less than \$27 million.

b. Redevelopment Work Schedule

- i. Work must commence within 90 days from Effective Date of Concession Agreement.
- ii. Required Commencement of Construction Date may be extended for two additional six-month periods with no payment for the first extension and a \$100,000 payment for the second extension.

- iii. Work must be completed within 24 months of Effective Date.
- iv. Two six-month extensions for Required Completion of Construction Date may be purchased for payments of \$100,000 each.
- v. Any claimed force majeure delay period shall not exceed one year.
- c. Total Allowable Redevelopment Costs: \$42 Million indexed for inflation from Effective Date to Construction Completion Date
 - i. Total Allowable Redevelopment Costs will be a cap for purposes of calculating both TI Allowance and Maximum Rent Deferral.
- d. Minimum Annual Rent (paid in advance in equal monthly installments)
 - i. Construction Period (Effective Date through Construction Completion Date):
 - 1. Years 1-3: \$50,000
 - 2. Year 4: \$400,000
 - 3. Year 5: \$1,000,000
 - ii. Operation Period (Commences first day following Construction Period through end of Term):
 - 1. Years 1-10: \$400,000
 - 2. Years 11-20: \$960,000
 - 3. Years 21-25: \$1,056,000
 - 4. Years 26-30: Greater of: 1) prior Annual Minimum Rent or 2) 50% of the average Annual Rent plus Percentage Rent for the prior three years.
 - 5. Year 31 and every five years thereafter: Greater of: 1) prior Annual Minimum Rent or 2) 75% of the average Annual Rent plus Percentage Rent for the prior three years.
 - iii. Interest Rent: In addition to Minimum Annual Rent and Percentage Rent, Concessionaire shall pay the following Interest Rent in advance in equal monthly installments for Years 1-10 of Operations.
 - 1. Year 1: \$0
 - 2. Year 2: \$62,924
 - 3. Year 3: \$125,722
 - 4. Year 4: \$191,406
 - 5. Year 5: \$256,986
 - 6. Year 6: \$323,474

7. Year 7: \$390,881
8. Year 8: \$459,218
9. Year 9: \$528,498
10. Year 10: \$598,732

iv. Percentage Rent:

1. 10% Restaurant
2. 12% Bar
3. 12% Parking Fees
4. 12% Retail Sales
5. 25% Service Enterprise-Coin Operating Vending Machines
6. 12% Miscellaneous

v. Maximum Rent Deferral shall be set at 50% of the lesser of (a) the Total Redevelopment Cost or (b) the Total Allowable Redevelopment Cost.

1. For the first 10 years of operation, a portion of percentage rent up to the Maximum Rent Deferral shall be deferred as set forth below in the Percentage Rent Allocation section.
2. At the end of Year 10, all deferred Percentage Rent plus 5% interest shall be paid in equal monthly payments over a 15-year period.
3. Concessionaire to provide guaranty for Rent Deferral payments.

vi. TI Allowance shall be set at 50% of the lesser of (a) the Total Redevelopment Cost or (b) the Total Allowable Redevelopment Cost.

1. The TI Allowance shall not exceed \$21 million subject to indexed increase from Effective Date to Construction Completion Date.

vii. Annual Percentage Rent Allocation:

1. First up to \$2 million shall be allocated 50/50 to Deferred Rent up to the Maximum Rent Deferral and the annual TI Allowance;
2. Second, up to the remaining amount needed to meet the annual TI Allowance payment in Operating Years 1-15 (1/15th of the TI Allowance);

3. Third, to TI Allowance Catch-Up (i.e., unallocated TI Allowance Offset from prior periods until appropriate cumulative TI Allowance Offset has been allocated);
 4. Fourth, to Deferred Rent, until the Maximum Rent Deferral is achieved in Operating Years 1-10; and
 5. Any remaining Percentage Rent to be paid to the County.
- viii. Participation: Standard fee for Transfers and Financing Events subject to:
1. Conversion of construction debt to permanent debt does not qualify as a Financing Event;
 2. The first qualifying Financing Event and Transfer Event will be exempt from the Participation Fee as long as each occurs with the first 15 years of Construction.
- ix. Security Deposit shall be the following amounts:
1. Year 1 - \$100,000
 2. Year 2 - \$115,000
 3. Year 3 - \$130,000
 4. Year 4 - \$145,000
 5. Year 5 - \$160,000
 6. Year 6 - \$180,000
 7. Year 7 - \$200,000
 8. Year 8 - \$215,000
 9. Year 9 - \$230,000
 10. Years 10-20 - \$240,000
 11. Years 21-end of term – Consistent with County practices with other agreements but not to exceed an increase of 5% of prior amount of Security Deposit each 5 years.
- x. Reserve Fund to fund capital improvements to project.
- xi. FF&E Fund to fund replacements, additions or upgrades of or to furniture, fixtures and equipment used in the improvements throughout the Term.

CONTRACTING PROCESS

On April 23, 2017, the County issued a Request for Proposals for concession services at County-operated Will Rogers State Beach to develop, construct, manage, and operate a new restaurant with related facilities on the site of the existing Gladstone's restaurant. After a comprehensive evaluation, the County concluded that PCH Beach Associates, LLC was the most qualified proposer and recommended entering into exclusive negotiations with that proposer. On April 3, 2018, your Board authorized such negotiations, and the County and PCH Beach Associates executed the Exclusive Negotiating Agreement (ENA) on

September 27, 2018. Subsequently, the parties negotiated the terms of the proposed Option and Concession Agreements and are now seeking approval of those documents by your Board.

Upon Concessionaire's demonstration that it has satisfied the conditions for exercise of the Option, including the receipt of all governmental and other approvals required for the commencement of construction, DBH will present to your Board's Executive Officer the final confirmation that the conditions for exercise contained in the Option Agreement have been satisfied and will request the Chair's execution of the Concession Agreement for the Property in a form substantially similar to Exhibit A attached to the Option.

ENVIRONMENTAL DOCUMENTATION

The project qualifies for a Class 2, Replacement or Reconstruction, categorical exemption under CEQA (Public Resources Code section 21000 et seq.), the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), and the Environmental Document Reporting Procedures and Guidelines for the County, because it involves negligible or no expansion of an existing or former use and is within a class of projects that have been determined not to have a significant effect on the environment. The Class 2 categorical exemption allows for replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity. Section 15302 of the State CEQA Guidelines provides four examples of projects that are categorically exempt under this class, including: *"(b) replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity."*

The proposed project would replace an existing restaurant structure with a new restaurant structure within the same site and of a substantially similar size and capacity. The proposed restaurant would be constructed entirely within the same site of the existing building. The proposed project would include a restaurant building with a square footage of approximately 12,500 square feet which will replace the existing restaurant's 12,091 approximate square feet (aggregate floor area (inclusive of existing main restaurant, secondary restaurant, and accessory structure). Additionally, the new restaurant proposes a smaller capacity and fewer seats (proposed 450 seats compared to existing capacity of 707 seats). Reconfiguration of the existing adjacent parking lot would take place within the same site as the existing parking lot and provide similar levels of restaurant and public parking availability while also providing a transit benefit associated with bus layover facilities proposed within the site. All proposed improvements associated with the parking lot would be constructed within the existing property and no changes to the Pacific Coast Highway/Sunset Boulevard intersection or Pacific Coast Highway right-of-way is proposed.

Finally, the proposed project is not subject to any of the exceptions that would render the categorical exemptions inapplicable to the project. More specifically, the project: 1) does not present cumulative impacts due to an abundance of successive projects of the same type in the same place; 2) does not involve any unusual circumstances; 3) will not damage scenic highways; 4) is not located on any hazardous waste site lists pursuant to Government Code section 65962.5; and 5) will not cause a substantial adverse change in the significance of a historical resource.

Upon your Board's approval of the recommended actions, the department will file a Notice of Exemption with the County Clerk in accordance with section 21152 of the California Public Resources Code.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no impact on other current services or projects.

CONCLUSION

It is requested that the Executive Officer, Board of Supervisors send two original copies of the executed Option Agreement and an adopted Board Letter to the Department. Should you have any questions please contact Don Geisinger at (424) 526-7730 or DGeisinger@bh.lacounty.gov.

Respectfully submitted,

GARY JONES
Director

GJ:AC:SP:dlg

Enclosures

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors