



To enrich lives through effective and caring service



Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

March 5, 2009

TO: Small Craft Harbor Commission

FROM: Santos H. Kreimann, Director

SUBJECT: **SMALL CRAFT HARBOR COMMISSION AGENDA FOR
MARCH 11, 2009**

Enclosed is the March 11, 2009 meeting agenda, together with the minutes from your meeting of February 11, 2009. Also enclosed are reports related to Agenda Items 3a, 3b, 5a, 5b, 5c and 6a.

Please feel free to call me at (310) 305-9522 if you have any questions or need additional information in advance of the meeting.

SHK:ks
Enclosures



To enrich lives through effective and caring service



**SMALL CRAFT HARBOR COMMISSION
AGENDA
MARCH 11, 2009
6:00 P.M.**

Santos H. Kreimann
Director
Kerry Silverstrom
Chief Deputy

**BURTON W. CHACE PARK COMMUNITY ROOM
13650 MINDANAO WAY
MARINA DEL REY, CA 90292**

1. Call to Order and Pledge of Allegiance
2. Approval of Minutes: Meeting of February 11, 2009
3. **REGULAR REPORTS**
 - a. Marina Sheriff (DISCUSS REPORTS)
 - Crime Statistics
 - Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance with Liveaboard Permit Percentages
 - b. Marina del Rey and Beach Special Events (DISCUSS REPORT)
4. **OLD BUSINESS**

There is no Old Business
5. **NEW BUSINESS**
 - a. Approval of Concession License Agreement (RECOMMEND TO BOARD OF SUPERVISORS)
 - Burton Chace Park
 - b. Approval of Amendment No. 1 to Amended and Restated Lease No. 74729 – Parcel 15U (Esprit II) – Marina del Rey (RECOMMEND TO BOARD OF SUPERVISORS)
 - c. Marina del Rey Slip Sizing Study and Slip Vacancy & Pricing Study (PRESENTATION)

6. **STAFF REPORTS**

(DISCUSS REPORT)

- a. Ongoing Activities
- Board Actions on Items Relating to Marina del Rey
 - Regional Planning Commission's Calendar
 - Dredging Update
 - Venice Pumping Plant Dual Force Main Project Update
 - Redevelopment Project Status Report
 - Unlawful Detainer Actions
 - Design Control Board Minutes

7. **COMMUNICATION FROM THE PUBLIC**

8. **ADJOURNMENT**

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 Small Craft Harbor Commission on any official action 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: <http://marinadelrey.lacounty.gov>

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

MdR Visitors & 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

3. The entire agenda package and any meeting related writings or documents provided to a Majority of the Commissioners (Board members) after distribution of the agenda package, unless exempt from disclosure Pursuant to California Law, are available at the Department of Beaches and Harbors and at <http://marinadelrey.lacounty.gov>

Si necesita asistencia para interpretar esta informacion llame al (310) 305-9586.

ADA ACCOMODATIONS: 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 Disabilities Act) Coordinator at (310) 305-9590 (Voice) or (310) 821-1734 (TDD).

SMALL CRAFT HARBOR COMMISSION
MINUTES
FEBRUARY 11, 2009

Commissioners: Russ Lesser, Chairman; Vanessa Delgado, MPA, Vice-Chairman; Albert Landini, Ed.D.; Dennis Alfieri, Commissioner; Albert DeBlanc, Jr. Esq. (First unexcused absence)

Department of Beaches and Harbors: Santos Kreimann, Director; Paul Wong, Asset Management Division Chief; Dusty Crane, Community and Marketing Service Division Chief; Beverly Moore, Convention and Visitors Bureau

County Staff: Lt. Gautt, Sgt. Escamillas, and Dep. Carvalho, Sheriff's Department

Call to Order and Pledge of Allegiance: Chairman Lesser called the meeting to order at 9:35 am, followed by the pledge of allegiance.

Approval of Minutes: Chairman Lesser moved to approved the December 10, 2008 minutes, Vice-Chairman Delgado seconded. The motion was unanimously approved. Chairman Lesser welcomed Dennis Alfieri who was appointed as Commissioner by Supervisor Antonovich. He also requested the March 11, 2009 meet time be changed to 6:00 p.m, rather than the usual 9:30 a.m.

Item 3 - Regular Reports:

Sergeant Escamillas reported that grand thefts are a major problem and to keep objects out of plain view in vehicles. Deputy Carvalho reported the overall percentage of liveboards remain the same. Lieutenant Gautt informed the Commission and staff of the new We Tip Hotline number, which is (310) 482-6002.

Dusty Crane reported on the Fisherman's Village Weekend Concerts, Household Hazardous Waste Roundup, and Beach Events.

Beverly Moore reported on the Convention and Visitors Bureau's activities, including the January 2009 update of its website to provide enhanced features and services, including making downloadable videos and images available.

Item 5a - Recreational Boating Slip Mix:

Santos Kreimann reported that Beaches and Harbors contracted with Noble Consultants to conduct a boat slip sizing study to guide in the establishment of a policy regarding future dock replacements in the Marina that is based on measurable historic trends and market data such as boat and berthing size trends, DBAW guidelines, slip length and finger dock width, forecast dimensions to meet current and future boating size demands and finally to recommend the proper boat slip sizes. The report is expected to be completed in late February and be ready for presentation to the Commission.

Commissioner Landini asked if this would lead to a policy statement by the Board of Supervisors.

Santos Kreimann reported the Board could review and approval the document. He said he plans to include the study recommendations as part of the Local Coastal Plan for evaluation.

Jon Nahhas stated it's important to start discussing the slip mix now and establish an inventory of existing boating facilities in the harbor; mentioned the process needs to be transparent, and suggested identifying specific boating areas of concern such as deficiencies, survey boaters for recommendations and ensure affordable access.

Andy Bessette stated he was angered by the deception that has been done by the Commission and Beaches and Harbors with thousands of boat owners having lost their slips. He was concerned that now a report is being done and that a consultant is being recommended to conduct a study on the boat slips.

Santos Kreimann stated a broad scope of work was given to the consultant and the report will be guided by facts and market data.

Tim Riley said he supports the study, mentioned the dry stack storage would help the small boat owners, and that a November 2007 chart he has seen that was made pertaining to the boat slips in the Marina shows a high number of vacancy was in the smaller slips.

Dennis Alfieri asked if there would be a review period.

Santos Kreimann stated there would not be any action required, but there would be a 30 day period for review. He would provide a draft in March with the recommendation on slip sizes, breakdown of slips available now, charts of current condition and proposed condition based on plans submitted, identify other marinas up and down the coast, compared current and proposed conditions, and include the dry stack storage as a component.

Item 5b - ADA Dock Compliance in the Marina:

Santos Kreimann stated this was on the agenda by the request of a member of the public who was concerned there are too many boat slips in the Marina that are ADA compliant. A video presentation featuring Jon Nahhas' presentation to the Coastal Commission last month regarding his concern that Marina del Rey has too many ADA-compliant slips was played for the Commission and the public.

Santos Kreimann stated that the screenshots Jon Nahhas presented at the Coastal Commission and claimed to have been obtained from the Department's website were not from the Department's website other than the first slide that shows the summer bus and Mr. Nahhas presented as if all the slides were from the Department's website. As a result, he could not comment on Jon Nahhas' numbers because the source of information is not known.

Jon Nahhas stated since no data is available he talked to dockmasters and lessees but they did not even know what "ADA" stood for. He wanted to know where it says that each anchorage is required to have its own ADA slips. He also commented on the guidelines being used at other marinas.

Santos Kreimann read for the Commission an excerpt from the Accessible Boating Facilities Guidelines book which states, "The Americans with Disabilities Act (ADA) is a comprehensive civil rights law that prohibits discrimination on the basis of disability. The ADA requires that newly constructed and altered state and local government facilities, places of public accommodation, and commercial facilities be readily accessible to, and usable by, individuals with disabilities."

Andy Bessette said the reason there are so many ADA slips being installed is to eliminate the number of slips and the associated parking spaces. He said the developers and County want all the parking spaces and are making more money by building new businesses and apartments.

Carla Andrus agreed with Andy Bessette. She said she knew a man who was in a wheel chair who was unable to get up on the curb and unable to get into the toilet stall and "had to do his business" on the bathroom floor.

Santos Kreimann stated a Chace Park bathroom was renovated approximately six months ago to accommodate ADA access and further ADA compliance is underway.

Item 6 - Staff Reports:

Santos Kreimann updated the Commission on the Board of Supervisors' recent actions relative to Marina del Rey, progress on the Dredging project, updates on the City of Los Angeles' Venice Pumping Plant Dual Force Main Project, redevelopment project status, and the number of Unlawful Detainer filings by lessees.

Commissioner Landini asked if the public would be notified of the routing of the sewer line.

Santos replied that it would be made available on the Department's website when we have the information.

Carla Andrus commented on the Governor's proposal to merge the Department of Boating and Waterways with the Department of Parks and Recreation and wanted more clarification.

Santos Kreimann replied that the Department of Boating and Waterways' responsibility is very specialized and services to boaters may be impacted if it is merged with Parks and Recreation.

John Nahhas also spoke on the proposed Department of Boating and Waterways merger.

Item 7 – Communication from the Public

Jon Nahhas discussed issues relating to dry stack storage and asked to get constant feedback from the consulting firm.

Carla Andrus commented on the boat slip widths and stated she wants to know how many slips are being used by yacht brokers and how long they stay on the water before they are sold.

Santos Kreimann said the slip mix study will look at the current condition in MdR and compare to other marinas up and down the coast. The approach is to build a marina to benefit a wide spectrum of boats. In order to redevelop the marina and make it a viable asset for years to come

everyone needs to understand there is going to be a reduction of wet slips and alternatives will be provided for the boating community to enjoy the water and dry stack storage is a major component.

William Vreszk commented on dry stack storage, Noble Consultants findings of the slip mix and who profits from this conclusion. He said the removal of small boat slips may result in legal issues.

John Rizzo said he would like a regular update on the expansion of Supervisor Burke's park and the trade off for the beach being opened to the public.

Santos Kreimann replied that he would include this as a regular ongoing report. He confirmed the Chace Park community room is available on March 11, 2009 at 6:00 p.m. for the meeting.

Adjournment – Chairman Lesser adjourned the meeting at 11:20 a.m.

Respectfully Submitted

By: Donna Samuels, Commission Secretary

*Copies of taped meetings can be purchased immediately after all meetings with Commission Secretary.

**LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
MARINA DEL REY STATION
PART I CRIMES- FEBRUARY 2009**



	West Marina 2760	East Marina 2761	Lost R.D. 2762	Marina Water 2763	Upper Ladera 2764	County Area 2765	Lower Ladera 2766	Windsor Hills 2767	View Park 2768	TOTALS
Homicide										0
Rape										0
Robbery: Weapon	1						1	1		3
Robbery: Strong-Arm								1		1
Aggravated Assault									1	1
Burglary: Residence				1			3	6	4	14
Burglary: Other Structure	1	2	1	1			1			5
Grand Theft	8	3	2					2	2	17
Grand Theft Auto	2						1	2	1	6
Arson										0
Boat Theft										0
Vehicle Burglary	4					1	3		1	9
Boat Burglary				1						1
Petty Theft	2								1	3
REPORTING DISTRICTS TOTALS	18	5	0	5	0	1	9	12	10	60

Note- The above numbers may change due to late reports and adjustments to previously reported crimes.

Source- LARCIS, Date Prepared **MARCH 2, 2009**
CRIME INFORMATION REPORT - OPTION B

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

MARINA DEL REY STATION

PART I CRIMES- FEBRUARY 2009



Part I Crimes	MARINA AREA (RD'S 2760- 2763)	EAST END (RD'S 2764- 2768)
Homicide	0	0
Rape	0	0
Robbery: Weapon	1	2
Robbery: Strong-Arm	0	1
Aggravated Assault	0	1
Burglary: Residence	1	13
Burglary: Other Structure	4	1
Grand Theft	13	4
Grand Theft Auto	2	4
Arson	0	0
Boat Theft	0	0
Vehicle Burglary	4	5
Boat Burglary	1	0
Petty Theft	2	1
Total	28	32

Note- The above numbers may change due to late reports and adjustments to previously reported crimes.

Source- LARCIS, **Date Prepared –** MARCH 2, 2009
CRIME INFORMATION REPORT - OPTION B



MARINA DEL REY HARBOR LIVEBOARD COMPLIANCE REPORT 2009



<i>Liveaboard Permits Issued</i>		
	January	February
New permits Issued:	6	3
Renewal Issued:	4	7
Total:	10	10
Notices to Comply Issued:	26	26

Totals:	January	February
Liveaboard:	364	362
Current Permits:	274	288
Expired Permits:	36	24
No Permits:	54	50

Total reported vessels in Marina del Rey Harbor: 4690

Percentage of vessels that are registered liveaboards 7.72%



To enrich lives through effective and caring service

March 5, 2009



TO: Small Craft Harbor Commission

FROM: Santos H. Kreimann, Director 

SUBJECT: **ITEM 3b - MARINA DEL REY AND BEACH SPECIAL EVENTS**

Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

MARINA DEL REY EVENTS

OPENING DAY CEREMONIES 2009

Marina del Rey Yacht Clubs
Saturday, March 14 – Sunday, March 15

The yacht clubs of Marina del Rey will be celebrating the opening of the yachting season on March 14 and 15. Contact the clubs for their schedules of events during this weekend.

California Yacht Club:
www.calyachtclub.com
(310) 823-4567

Pacific Mariners Yacht Club:
www.pmyc.org
(310) 823-9717

Del Rey Yacht Club:
www.dryc.org
(310) 823-4664

Santa Monica Windjammers Yacht Club:
www.smwyc.org
(310) 827-7692

Marina Venice Yacht Club:
www.mvyc.org
(310) 822-9082

South Coast Corinthian Yacht Club:
www.sccyc.org
(310) 306-2787

DEDICATION CEREMONY – YVONNE B. BURKE PARK

4350 Admiralty Way, Marina del Rey
Wednesday, April 1, at 9:30 am

In honor of her then upcoming retirement, the Los Angeles County Board of Supervisors unanimously voted in November 2008 to rename Admiralty Park as Yvonne B. Burke Park. The name change, proposed by Supervisor Don Knabe, honors former Supervisor Burke for her 16 years of service representing the Second District, for her many firsts, including becoming the first African-American elected to the Board, and for devoting her entire professional life of over 50 years to public service, whether as an elected official, an attorney, or as an official of the U.S. Olympic Organizing Committee. In announcing the motion, Supervisor Knabe stated:

“Supervisor Burke has a deep personal attachment and commitment to Marina del Rey dating back nearly 30 years. I am proud to honor my colleague and my friend by finally and permanently renaming this park with the name it should rightfully have.”

For additional information regarding the Yvonne B. Burke Park dedication ceremony, please call (310) 305-9503.

MARINA DEL REY OUTDOOR ADVENTURES 2009

Sponsored by the Los Angeles County Department of Beaches and Harbors
Burton Chace Park ♦ 13650 Mindanao Way ♦ Marina del Rey ♦ Ca ♦ 90292

Bird Watching Experience Program

Thursdays, March 26 and May 28 at 4:00 pm
&
Thursdays, April 30 and June 25 at 9:00 am

County-sponsored bird watching walk for adults is a free two-hour walk, which will take place at various sites in the Ballona Wetlands. Meet at the Burton Chace Park Community Room. Participation, parking and transportation to the tour site are free. Pre-registration is a must! To register, please call (310) 628-2135.

FISHERMAN'S VILLAGE WEEKEND CONCERTS

Sponsored by Pacific Ocean Management, LLC
All concerts are from 1:00 – 4:00 pm

Saturday, March 7

J.T. Ross Band, playing Harmonica Blues & Jazz

Sunday, March 8

2 AZZ 1 Body & Soul Band, playing Smooth Jazz

Saturday, March 14

Eric & The Diamond Cutters, Neil Diamond Tribute Band

Sunday, March 15

Bernie Meisinger Band, playing Jazz Standards

Saturday, March 21

Richard Davis Quintet, playing Standards & Jazz

Sunday, March 22

Scott Martin & The Latin Soul Band, playing Latin Soul & Jazz

Saturday, March 28

LA CAT, playing Reggae

Sunday, March 29

The Kid & Nic Show, playing American Pop

For more information call: Pacific Ocean Management at (310) 822-6866.

BEACH EVENTS

U.S. Beach Boomerang Tournament

City of Hermosa Beach
Saturday, March 7 - Sunday, March 8
9:00 am – 5:30 pm

The United States Boomerang Association produces this tournament taking place on the beach at 14th Street. Competitors use lightweight plastic boomerangs to compete in various throwing events that measure accuracy, catching ability, distance and speed. The tournaments are open to the public and observers are encouraged to try their hand at throwing and catching a returning boomerang.

For more information call: (310) 318-2889 or (512) 557-5848 or email sonofchi@sonofchi.com.

SHK:DC:ks



"To enrich lives through effective and caring service"



Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

March 5, 2009

TO: Small Craft Harbor Commission

FROM: Santos H. Kreimann, Director

SUBJECT: **ITEM 5a – APPROVAL OF CONCESSION LICENSE AGREEMENT – BURTON CHACE PARK**

Item 5a on your agenda relates to a recommendation resulting from a Request for Proposals (RFP) for concessionaires to provide food service at various beaches and in only one Marina location, Burton Chace Park, effective June 1, 2009.

In response to our RFP, we only received one proposal for the Burton Chace Park location, which was received from the current operator, Café Petra. The proposal was reviewed and scored by an evaluation committee comprised of personnel from various divisions of the Department of Beaches and Harbors. The proposal was rated based on the proposer's proposed rent, financial capability, experience, and business plan.

The proposal from Café Petra offers initial rent of \$7,100 per year, slightly less than the current annual rent of \$7,408; minimum bid had been set at \$5,600, or 75% of the current rent. An eclectic menu (copy attached) with food and beverage prices affordable to most members of the public will be offered. Based upon our current experience with the concessionaire, we believe Café Petra will bring a pleasant dining experience to Burton Chace Park.

A copy of the license that will be used for this concession is attached.

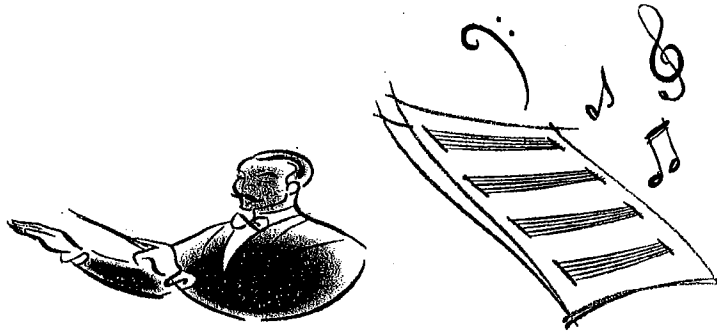
I request your endorsement of my recommendation for the award of the Burton Chace Park concession license agreement to Café Petra.

SHK:ks

Attachments (2)

Café Petra

Coffee/Dessert Bar Menu



Chocolate Croissant	\$3.00
Brownie or Carrot Cake	\$3.00
Apple Struddle	\$3.00
Strawberry Struddle	\$3.00
Cookies	\$1.00
Pop Corn (Cheese & Plain)	\$1.00
Sodas (Coke, Diet Coke and Sprite)	\$1.50
Arrowhead Water	\$1.75
Perrier	\$2.00
Argentine Café	\$2.50
Hot Chocolate	\$2.00
Hot Tea	\$2.00
Ice Crème	\$2.00

Café Petra

Hebrew National Dog w/fries or onion rings	\$4.00
Chili Cheese Dog	\$5.00
Hamburger w/fries or onion rings	\$6.00
Cheeseburger w/fries or onion rings	\$6.50
Pizza 11" Personal	
Cheese	\$5.00
Pepperoni	\$5.50
Additional toppings:	\$0.50
(Onions, Bell Pepper, Pineapple, Olives, Ham, Sausage, Chorizo, Jalapenos)	
Garden Burger w/fries or onion rings	\$7.50
Argentine Cut Steak Sandwich w/fries	\$8.00
Pork Ribs w/Baked Beans and Potato Salad	\$11.00
Barbecue Chicken w/Baked Beans and Salad	\$8.00
Grilled Chicken Sandwich w/fries or onion rings	\$7.50
Empanadas (Beef, Chicken and Cheese)	\$2.00
Grilled Cheese Sandwich w/fries or onion rings	\$3.75
Grilled Chicken Salad	\$8.00
Steak fries or Onion Rings	\$2.00
Cookies	\$1.00
Sodas (Coke, Diet Coke and Sprite)	\$1.75
Arrowhead Water	\$1.75
Perrier	\$2.00
Argentine Café	\$2.50
Hot Chocolate	\$2.00
Hot Tea	\$2.00
Ice Crème	\$2.00

OPEN 7 DAYS 10am to 6pm

APPENDIX A



SAMPLE
CONCESSION LICENSE AGREEMENT
BY AND BETWEEN
COUNTY OF LOS ANGELES
AND

December, 2008
v. 12-18-08 JT

**CONCESSION SERVICES AT COUNTY OWNED AND OPERATED
BEACHES AND BURTON CHACE PARK**

**REQUEST FOR PROPOSALS
CONCESSION SERVICES AT COUNTY OWNED AND OPERATED BEACHES
AND BURTON CHACE PARK**

APPENDIX A

SAMPLE CONCESSION LICENSE AGREEMENT

TABLE OF CONTENTS

PARAGRAPH	TITLE	PAGE
	<i>SUMMARY LICENSE PROVISIONS</i>	2
1.0	APPLICABLE DOCUMENTS.....	3
2.0	LICENSE GRANTED	3
3.0	AUTHORIZED ACTIVITY	3
4.0	CONCESSION PREMISES	4
5.0	RENT	6
6.0	INTERPRETION AND DEFINITIONS	7
7.0	LICENSE TERM.....	8
8.0	TERMS AND CONDITIONS.....	8
8.1.	ASSIGNMENT AND DELEGATION.....	8
8.2.	AUTHORIZATION WARRANTY	9
8.3.	CANCELLATION.....	9
8.4.	CIVIL RIGHTS LAWS/NON-DISCRIMINATION AND AFFIRMATIVE ACTION.....	9
8.5.	COUNTY/GOVERNMENT PROGRAMS	10
8.5.1.	<i>CHILD SUPPORT - Warranty of Adherence</i>	10
8.5.2.	<i>No Conflict of Interest</i>	10
8.5.3.	<i>Earned Income Tax Credit, Notice to Employees</i>	11
8.5.4.	<i>GAIN/GROW Participants</i>	11
8.5.5.	<i>Jury Service Policy</i>	11
8.5.6.	<i>Living Wage Ordinance</i>	12
8.5.7.	<i>Contractor Responsibility and Debarment</i>	17
8.5.8.	<i>Lobbyist Ordinance</i>	19
8.5.9.	<i>Recycled-Content Paper</i>	19
8.5.10.	<i>Referral and Consideration of County Employees for Employment</i>	19
8.5.11.	<i>Registration on County WebVen</i>	19
8.5.12.	<i>Safely Surrendered Baby Law</i>	19
8.5.13.	<i>Artificial Trans Fat Reduction Program</i>	20
8.6.	DISCLOSURE OF INFORMATION.....	21
8.7.	EMPLOYMENT ELGIBILITY VERIFICATION.....	21
8.8.	ENFORCEMENT	22
8.9.	EVENTS OF DEFAULT	22
8.10.	FAIR LABOR STANDARDS	22
8.11.	FORCE MAJEURE (TIME EXTENSIONS).....	23
8.12.	GOVERNING LAW, JURISDICTION AND VENUE (INTERPRETATION).....	23
8.13.	HOLD HARMLESS AND INDEMNIFICATION.....	23
8.14.	INDEPENDENT CONTRACTOR	23
8.15.	INSURANCE	24
8.16.	MEETINGS.....	26
8.17.	NON-COMPLIANCE AND LIQUIDATED DAMAGES.....	27
8.18.	NOTICE OF DISPUTE	27
8.19.	NOTICES	27
8.20.	PUBLIC RECORDS ACT	28

8.21.	SALES PROCEEDS, COUNTY’S NON-RESPONSIBILITY FOR	28
8.22.	SECURITY DEPOSIT	28
8.23.	SEVERABILITY	29
8.24.	SUB-CONTRACTING	29
8.25.	SURRENDER.....	29
8.26.	TAXES AND ASSESSMENTS.....	29
8.27.	TRANSFERS.....	29
8.28.	VALIDITY	30
8.29.	WAIVER.....	30
8.30.	ENTIRE AGREEMENT.....	30
8.31.	INTERPRETATION.....	31
9.0	TERMINATION.....	31
9.1.	CONVENIENCE.....	31

APPENDIX B STATEMENT OF WORK AND ADDITIONAL CONTRACT PROVISIONS

APPENDIX C EXHIBITS (Concession Premises, Authorized Activity, County-Owned Trade Fixtures)

APPENDIX D ATTACHMENTS (Forms, Ordinances and Policies)

CONCESSION LICENSE AGREEMENT

RECITALS

This LICENSE entered into this _____ day of _____, 2009

BY AND BETWEEN

COUNTY OF LOS ANGELES, a body
corporate and politic, hereinafter referred to
as "County"

AND

_____, a sole
proprietorship, (or corporation, or
partnership) hereinafter referred to as
"Licensee", Concessionaire" or "Contractor"

SUMMARY LICENSE PROVISIONS

The basic terms of this License are summarized as follows:

- (a) County: The County of Los Angeles
- (b) Licensee; Concessionaire;
Contractor: Name: _____
Address: _____

Phone: _____
E-mail: _____
- (c) Authorized Activity (Paragraph 3.0):
- i) Mobile Food
 - ii) Concession Stand (including Burton Chace Park)
 - iii) Bike & Skate Rentals
 - iv) Hang Gliding
 - v) Beach Merchandise Sales & Rentals
- See Appendix C, for definitions.
- (d) Exclusive Zone (Concession Stands only) (Subparagraph 3.2): Two hundred (200) feet in all directions of the exterior of the concession building on the Premises except for Burton Chace Park, for which the Exclusive Zone is defined in Subparagraph 3.3.
- (e) Rent (Paragraph 5.0): The annual rent for the first License Year, \$_____ (“Commencement Rent”) shall be payable monthly at variable percentage rates and shall be adjusted annually by the Consumer Price Index (Subparagraphs 5.7-5.9).
- (f) License Term (Subparagraph 7.1): Four (4) years and ten (10) months, commencing June 1, 2009 (“Effective Date”) and terminating March 31, 2014 (“Expiration Date”).
- (g) Premises (Paragraph 4.0): See Appendix C, for locations.
- (h) Outdoor Trade Fixtures: As appropriate for the Authorized Activity.
- (i) County Owned Trade Fixtures: See Appendix C, “County Owned Trade Fixtures”.

RECITALS

WHEREAS, County may contract with private business for services in accordance with CALIFORNIA GOVERNMENT CODE SECTIONS 23004, 25536, and 31000 to grant concessions that are consistent with the government purposes served thereby; and

WHEREAS, County is the owner or operator of the Premises as shown in Appendix C, "Concession Premises" of this License; and

WHEREAS, a License for the Authorized Activity from the Premises is consistent with the public purposes for which said building is used; and

WHEREAS, County is willing to exercise the grant of such a License/Concession in accordance with the terms and conditions prescribed herein.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, and for good and valuable consideration, the parties agree as follows:

1.0 APPLICABLE DOCUMENTS

The attachments and exhibits designated below are attached to and form a part of this Agreement. In the event there is any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverables, goods, or services, this Agreement shall control; followed by Exhibits, then Attachments.

2.0 LICENSE GRANTED

Licensee is hereby authorized to engage in the Authorized Activity which is to operate a mobile food, vending cart, concession stand, bike and skate rental, hang gliding, or beach merchandise sale and rental service. The Authorized Activity is restricted to specific locations.

Licensee understands and agrees that the Concession is by license and not lease and confers only permission to occupy the concession premises ("Premises") for the Authorized Activity in accordance with the terms and conditions hereinafter specified without granting or reserving to Licensee any interest or estate therein.

3.0 AUTHORIZED ACTIVITY

3.1. The Licensee is authorize to conduct the Authorized Activity, as indicated in the Summary License Provisions, from the Premises and for no other purpose without the expressed written consent of the Director, and to provide for use such Outdoor Trade Fixtures, as indicated in the Summary License Provisions, on the Premises in conjunction with the Authorized Activity. The number and location of such Outdoor Trade Fixtures shall be approved in writing by the Director.

3.2. Subparagraph 3.2 is only applicable to licenses for selling food and beverage from a concession stand (excluding Burton Chace Park). The Director shall not grant any other permits to conduct the Authorized Activity within the Exclusive Zone, as defined in Section (d) in the Summary License Provisions. Nothing in this License shall limit the Director's right to grant permits or allow for other types of activities within or outside the Exclusive Zone. Permits or other types of activities may include but are not limited to the following: placing food and beverage vending machines on the beach; granting permits or concession agreements for the sale or rental of miscellaneous items of beach merchandise, such as (without limitation) sun block lotion, suntan lotion, towels and

umbrellas; and/or granting permits for the promotion of products and services through sampling.

- 3.3. Subparagraph 3.3 is only applicable to the License for selling food and beverage from a concession stand in Burton Chace Park. The Director shall not grant any other permits for the Authorized Activity within the Exclusive Zone, defined as the area commonly known as Burton Chace Park, Marina del Rey, except that the Director reserves the right to permit special events to be held within the Burton Chace Park at which catered food and beverage service by other vendors may be provided.
- 3.4. Subparagraph 3.4 is only applicable to the Licenses for selling food and beverage from a Mobile Food Preparation Unit (defined in Subparagraph 6.16). The privilege granted under this License is non-exclusive. The County reserves the right to authorize sales of similar merchandise by means other than lunch vehicles and/or Mobile Food Preparation Units and sales of different merchandise from similar equipment.
- 3.5. Subparagraph 3.5 is only applicable to the Licenses for Bike and Skate Rentals, Beach Merchandise Sales and Rentals, and Hang Gliding. The privilege granted under this License is exclusive; however, the Director reserves the right to grant within the parking lot where the Premises are located permits or concession agreements for activities other than the Authorized Activity.
- 3.6. The Authorized Activity is strictly limited to the activity, as referenced in Section (c) in the Summary License Provisions, in Appendix C, "Authorized Activity", and shall not be construed to grant Licensee any rights that are not specifically set forth in this agreement.
- 3.7. The County assumes no responsibility for protecting the Licensee from illegal vendors in the vicinity of the Premises or Exclusive Zone.
- 3.8. The Licensee understands and agrees that the Licensee's use of the Premises is by License and not by lease, and confers permission only to use the Premises for the Authorized Activity in accordance with the terms of this License without granting or reserving to the Licensee any right, title, interest, or estate in the Premises or the Exclusive Zone.
- 3.9. The Licensee further acknowledges and agrees that neither the expenditure of capital for the installation of equipment or the purchase of trade fixture or fixtures, nor the provision of labor on the Premises by the Licensee over the License term shall confer any right, title, interest, or estate in the Premises or the Exclusive Zone beyond the right to the use in accordance with the specific terms of the License.
- 3.10. In engaging in the Authorized Activity from the Premises, the Licensee is acting solely as an independent contractor, it being expressly understood by the parties that this is the only relationship that has been or is intended to be created. This License does not constitute, and the parties do not intend to create a partnership, a joint venture, an employment or an agency. It is mutually understood and agreed that the construction of rights and obligations under the License is to be determined in accordance with the laws relating to owners and occupants of real property.

4.0 CONCESSION PREMISES

- 4.1. The Licensee acknowledges and agrees that the Authorized Activity may be exercised only from the Premises, as referenced on the Summary License Provisions, and shown

on the appropriate page in Appendix C and that the use of the Premises under this License shall be subject to all of the limitations set forth in this agreement.

- 4.2. The License does not confer any special parking privileges on the Licensee, other than two (2) free entries to the parking lot for vehicular parking while engaged in the Authorized Activity. A photo identification card of Licensee or its employees must be obtained from the Department's parking contractor before the two (2) free entry passes will be issued.
- 4.3. The Premises may be used only for the purpose of engaging in the Authorized Activity, and for no other purpose. The sale or rental of any other goods, wares, and merchandise will require the express written consent of the Director. The Director shall act reasonably on such requests based upon whether it is in the best interest of the County, the safety of the items, whether it is customarily offered for sale or rent in connection with the Authorized Activity, and whether the sale or rental of such items is not prohibited by applicable federal, state and local statutes, laws and regulations.
- 4.4. The Licensee acknowledges personal inspection of the Premises and the surrounding area and evaluation of the extent to which the physical condition affects the conduct of the Authorized Activity. The Licensee accepts the Premises and Exclusive Zone in their present physical condition, and the Licensee agrees to make no demands upon the County for any improvement to or alteration of the Premises, County Owned Trade Fixtures, or Exclusive Zone.
- 4.5. The Licensee hereby acknowledges the title of the County, and or any other public agencies having jurisdiction, ownership and/or control of the Premises, the Exclusive Zone, and the beach, and the County's ownership of any trade fixtures provided by the County, over the License Term, and the Licensee promises never to assail, contest, or resist said title and/or control, nor to assist any other person or entity in engaging in such activity.
- 4.6. The Licensee shall make no alterations to the Premises or construct any improvements on the Premises except as specifically provided for in the agreement.
- 4.7. In the event the County is unable to provide use of the Premises to the Licensee upon the Effective Date of the License Term, the License shall not be void or voidable by reason of such failure nor shall the County be liable to the Licensee for any loss or damage resulting from such an event. However, the Licensee shall be excused from any payments to be made to the County, until such time as the County provides use of the Premises to the Licensee.
- 4.8. The Licensee, or its authorized agent, has conducted personal inspection of the County furnished Trade Fixtures, and found said Trade Fixtures are in proper working condition, except as otherwise stated in Appendix C, "County Owned Trade Fixtures". The Licensee accepts said Trade Fixtures on an "AS-IS" and "WITH ALL FAULTS" basis, and in their present physical condition. Licensee agrees to repair and maintain at Licensee's sole cost and expense said Trade Fixtures (and any other equipment, trade fixtures, or fixtures that Licensee may install in the Premises) during the License Term. Licensee further agrees that Licensee shall at the expiration or earlier termination of the License return said Trade Fixtures to County in the same condition as they were at the commencement of the License Term, aside from reasonable wear and tear.
- 4.9. Subparagraph 4.9 is only applicable to Licenses offering hang gliding equipment rental and lessons. The Licensee may install a temporary Portable Building (defined in Subparagraph 6.18) on the Premises during the course of conducting the Authorized

Activity. However, the Portable Building must be installed at Licensee's sole expense and only after Licensee's procurement of all the necessary approvals for the installation and compliance with all the applicable federal, state and local statutes, laws and regulations. Furthermore, the Licensee must have all customers read and sign a waiver of liability, assumption of risk, and indemnity agreement prior to the Licensee offering equipment rental or lessons. Such agreement must be submitted and approved by the Director. See Appendix C, "Waiver of Liability, Assumption of Risk, and Indemnity Agreement", for an example of said agreement.

5.0 RENT

The Licensee shall pay the County the annual rent over the License Term.

- 5.1.** The annual rent for the first License Year (defined in Subparagraph 6.4) of the License Term shall be the amount of Commencement Rent, as defined in the Summary License Provisions, Section (e).
- 5.2.** Subparagraph 5.2 is only applicable to licenses for selling food and beverage from a concession stand, including Burton Chace Park concession; rental of bicycles and skates; and, offering hang gliding equipment rental and lessons. The annual rent for each License Year shall be payable the first day of each month in installments for each of the months of June, July, August and September at fifteen and six-tenths percent (15.6%) of the annual rent and for each of the months of October through May at four and seven-tenths percent (4.7%) of the annual rent.
- 5.3.** Subparagraph 5.3 is only applicable to licenses for the selling of food and beverage services from a Mobile Food Preparation Unit and rental of beach related recreation equipment. The annual rent for each License Year shall be prorated and paid on the first day of each month in installments for the month of June at twenty percent (20%), July and August at thirty-five percent (35%) each, and September at ten percent (10%) of the annual rent.
- 5.4.** The Licensee acknowledges and agrees that the unequal proration of the rent under Subparagraphs 5.3 and 5.4 is a fair and equitable way for the rent to be paid in view of the fact that a uniform allocation of the amount is inappropriate due to seasonal (May through September) use of the beach by the public, and the substantial value that is attributed to the License during this period of time.
- 5.5.** The monthly payment shall be made by check or draft issued and payable to the Los Angeles County Department of Beaches and Harbors and mailed to Department of Beaches and Harbors, Attn: Financial Services Section, 13575 Mindanao Way, Marina del Rey, CA 90292.
- 5.6.** In the event a monthly payment is not made on or before the date the payment is due, a late charge of ten percent (10%), of the payment shall be charged and added to the unpaid amount. If the monthly payment is delinquent in excess of three (3) days following written notice for payment, the Director may in his sole discretion terminate the License.
- 5.7.** The annual rent for the License Year shall be adjusted annually as follows: The Commencement Rent shall be multiplied by a fraction, the numerator of which is the number for the Index published for the third month before the date of adjustment, and the denominator of which is the number for the Index published for the third month before the Effective Date. County shall compute the new rent in accordance with the

provisions herein and inform the Licensee in writing of such new rent. In no event shall the adjustment result in a decrease of annual rent.

- 5.8. The index used for determining the annual rent adjustment shall be the United States Department of Labor, Bureau of Labor Statistics, "Consumer Price Index-All Urban Consumers", "Los Angeles-Riverside-Orange County, CA", area, "Rent of Primary Residence" item, base period 1982-84=100, not seasonally adjusted ("Index").
- 5.9. If the Index discontinued or revised during the License Term, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.
- 5.10. In the event the License is terminated for any reason, the Licensee will not be eligible for any monetary reimbursement of rental payments received by the County.

6.0 INTERPRETION AND DEFINITIONS

- 6.1. This License shall be interpreted according to the rules which govern the interpretation of contracts, as prescribed in Part 2 of Division 3 of the California Civil Code, commencing with Section 1635.
- 6.2. The heading contained in this License are for convenience and reference only and are not intended to define or limit the scope of any provision of the License.
- 6.3. The following words, as used in the License, shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:
- 6.4. **License Year** - A period of twelve consecutive calendar months commencing with Effective date, or anniversaries, thereof, with the exception that the fifth and last year of the License Term shall have a shortened duration of ten (10) consecutive calendar months.
- 6.5. **Board** - The Board of Supervisors of the County of Los Angeles.
- 6.6. **Director** - The Director of the Department of Beaches and Harbors of the County of Los Angeles.
- 6.7. **Department** - The Department of Beaches and Harbors of the County of Los Angeles.
- 6.8. **Concession** - The privilege of engaging in the commercial activities authorized herein on the designated public property.
- 6.9. **Licensee; Concessionaire; Contractor** - Authorized vendor, under this License to provide concession services defined in this agreement to visitors of County owned and operated beaches and visitors to Burton Chace Park, located in Marina del Rey.
- 6.10. **License/Contract/Agreement** - Agreement executed between County and Licensee, including all attachments and exhibits, as may be amended from time to time. It sets forth the terms and conditions for the issuance and performance of the Concession.
- 6.11. **County** - County of Los Angeles.
- 6.12. **Day(s)** - Calendar day(s) unless otherwise noted.

- 6.13. **Fiscal Year** - The twelve (12) month period beginning July 1st and ending the following June 30th.
- 6.14. **Health Officer** - Health Officer of the County of Los Angeles or an authorized representative thereof.
- 6.15. **Health Department** - The Health Department of the County of Los Angeles.
- 6.16. **Mobile Food Preparation Unit** - A vehicle or vending cart, from which food is prepared, cooked, wrapped, packaged, processed or portioned for sale.
- 6.17. **Parking Lot Operator** - The County's beach parking lot manager.
- 6.18. **Portable Building** - A temporary self-supporting structure not to exceed 8 feet tall, 8 feet wide and 40 long provided by Licensee during the course of business for rental of bicycles and skates, rental of beach related recreation equipment, and offering of hang gliding recreation and lessons.
- 6.19. **Trade Fixtures** - All necessary appliances, furniture, fixtures and equipment to engage in the Authorized Activity from the Premises and in any other authorized areas of the Premises.
- 6.20. **State** - The State of California.

7.0 LICENSE TERM

- 7.1. The term of the License shall be for a period of four (4) years and ten (10) months commencing on the Effective Date and ending on the Expiration Date, as defined in Section (f), "License Term", in the Summary License Provisions, unless terminated earlier pursuant to the terms hereof. Under no circumstances shall the License Term be extended beyond the Expiration Date.
- 7.2. The Licensee shall vacate the Premises upon the expiration of the License. In the event a holdover should occur, the Licensee acknowledges and agrees that the use of the Premises shall be pursuant to the terms of this License.
- 7.3. In the event the Licensee holds over beyond the term herein provided with the consent, express or implied, of the County, such holding over shall be from month to month only, subject to the terms and conditions of this Contract, and shall not be a renewal hereof.

8.0 TERMS AND CONDITIONS

8.1. ASSIGNMENT AND DELEGATION

- 8.1.1. The Licensee shall not assign its rights or delegate its duties under this License, or both, either in whole or in part, without the prior written consent of the Director. Any unapproved assignment or delegation shall be null and void at the option of the County to be exercised in its sole discretion. Any payments by the County to any approved delegate or assignee on any claim under this License shall be deductible, at the County's sole discretion, against any claims that the Licensee may have against the County.
- 8.1.2. Any assumption, assignment, delegation, or takeover of any of Licensee's duties, responsibilities, obligations, or performance of same by any entity other than Concessionaire, whether through assignment, sub-contract, delegation, merger, buyout, sale of stock, or any other mechanism, with or without consideration for

any reason whatsoever without the Director's express prior written approval, may result in the termination of this License at County's sole discretion. Acceptance of any payment from any entity other than Licensee shall not waive or constitute such approval.

8.2. AUTHORIZATION WARRANTY

Licensee represents and warrants that the signatory to this Contract is fully authorized to obligate Licensee to each and every term, condition, and obligation of this Contract and that all requirements of the Licensee have been fulfilled to provide such actual authority.

8.3. CANCELLATION

8.3.1. Upon the occurrence of any one or more of the Events of Default set forth in Subparagraph 8.9, "Events of Default", of this License shall be subject to cancellation by County. As a condition precedent thereto, the Department shall give Licensee ten (10) days notice by registered or certified mail of the date set for cancellation thereof; the grounds therefore; and that an opportunity to be heard thereon will be afforded on or before said date, if request is made thereof.

8.3.2. Upon cancellation of the License, County shall have the right to terminate the License to use the Premises created hereby and take possession of the Premises, including all improvements, equipment, and inventory located thereon, and use same for the purpose of satisfying and/or mitigating all damages incurred from a breach of this License.

8.3.3. Action by County to effectuate a cancellation and forfeiture of the Concession shall be without prejudice to the exercise of any other rights provided herein and/or in Appendix B-Statement of Work and Additional Contract Provisions or by law to remedy a breach of this License.

8.4. CIVIL RIGHTS LAWS/NON-DISCRIMINATION AND AFFIRMATIVE ACTION

8.4.1. Licensee hereby assures and agrees that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Section 2000e through 2000e-17, to the end that no person shall, on the grounds of race, creed, color, sex, sexual preference, religion, ancestry, age, condition of physical or mental disability, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this License or under any project, program, or activity supported by this License.

8.4.2. Licensee certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally without regard to, or because of race, color, religion, ancestry, national origin, sex, sexual preference, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

8.4.3. Licensee shall take affirmative action to ensure that all employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, sexual preference, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to, employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- 8.4.4.** Licensee shall deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, sexual preference, age, physical or mental disability, marital status, or political affiliation.
- 8.4.5.** Licensee shall allow County representatives access to the Licensee Concessionaire employment records during regular business hours to verify compliance with the provisions of this Paragraph when so requested by the County.
- 8.4.6.** If the County finds that any provisions of this Paragraph have been violated, such violation shall constitute a material breach of this License upon which the County may terminate or suspend this License. While the County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Licensee has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Licensee has violated the anti-discrimination provisions of this License

8.5. COUNTY/GOVERNMENT PROGRAMS

8.5.1. CHILD SUPPORT - Warranty of Adherence

The Licensee acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from County through a contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Licensee's duty under this License to comply with all applicable provisions of law, the Licensee warrants that it is now in compliance and shall during the term of this License maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to California Code of Civil Procedure Section 706.031 and California Family Code Section 5246(b).

8.5.2. No Conflict of Interest

No County employee whose position with the County enables such employee to influence the award of this License or any competing contract, and no spouse or economic dependent of such employee, is or shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any

facts that might reasonably be expected to create a conflict of interest, it shall immediately make full disclosure of such facts to the County. Full written disclosure shall include, but not be limited to, identification of all persons implicated and a complete description of all relevant circumstances. The Contractor represents and warrants that it is aware of, and its authorized officers have read, the provisions of Los Angeles County Code, Section 2.180.010, "Certain Contracts Prohibited," and that execution of the Contract will not violate those provisions. See Appendix D, "No Conflict of Interest, Certification of".

8.5.3. Earned Income Tax Credit, Notice to Employees

Contractor shall notify its employees, and shall require each subcontractor (if any), to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015. See Appendix D, "Earned Income Credit".

8.5.4. GAIN/GROW Participants

Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program, or General Relief Opportunities for Work Program (GROW) who meet the Contractor's minimum qualifications for the position. The County will refer GAIN/GROW participants by job category to the Contractor. See Appendix D, "Willingness to Consider GAIN/GROW Participants".

In the event that laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

8.5.5. Jury Service Policy

8.5.5.1. Unless Licensee has demonstrated to the County's satisfaction either that Licensee is not a "Contractor" as defined under the Jury Service Program as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Appendix D, "Contractor Employee Jury Service" and made a part of this Contract, or that Licensee qualifies for an exception to the Jury Service Policy (Section 2.203.070 of the County Code), Licensee shall have and adhere to a written policy that provides that its Employees shall receive from the Licensee, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Licensee or that the Licensee deduct from the Employee's regular pay the fees received for jury service.

8.5.5.2. For purposes of this Subparagraph 8.5.5, "Licensee" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Licensee. "Full time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Licensee has a

long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Policy. If Concessionaire uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Subparagraph 8.5.5 shall be inserted into any such subcontract agreement and a copy of the Jury Service Policy shall be attached to such agreement.

8.5.5.3. If Licensee is not required to comply with the Jury Service Policy when the Contract commences, Concessionaire shall have a continuing obligation to review the applicability of its “exception status” from the Jury Service Policy, and Concessionaire shall immediately notify County if Licensee at any time either comes within the Jury Service Policy’s definition of “Contractor” or if Licensee no longer qualifies for an exception to the Program. In either event, Licensee shall immediately implement a written policy consistent with the Jury Service Policy. The County may also require, at any time during the Contract and at its sole discretion, that Licensee demonstrate to the County’s satisfaction that Licensee either continues to remain outside of the Jury Service Policy’s definition of “Contractor” and/or that Licensee continues to qualify for an exception to the Policy.

8.5.5.4. Licensee’s violation of this subparagraph 8.5.5 may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement and/or bar Licensee from the award of future County contracts for a period of time consistent with the seriousness of the breach. Licensee shall properly prepare and execute Appendix D, “Contractor Employee Jury Service Program Certification Form and Application for Exception” which is attached hereto prior to County’s execution of the Contract.

8.5.6. Living Wage Ordinance

This Contract is subject to the provisions of the County’s ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached as Appendix D, “Living Wage Ordinance”, and incorporated by reference into and made a part of this Agreement.

8.5.6.1. Payment of Living Wage Rates

1 Unless Contractor has demonstrated to the County’s satisfaction either that Contractor is not an “Employer” as defined under the Program (Section 2.201.020 of the County Code) or that Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of the County Code), Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees’ services provided to the County, including, without limitation, “Travel Time” as defined below at Subsection 5 of this Subparagraph 8.5.6.1 under the Agreement:

- a** Not less than \$9.46 per hour if, in addition to the per-hour wage, Contractor contributes less than \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

b Not less than \$8.32 per hour if, in addition to the per-hour wage, Contractor contributes at least \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed \$1.14 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the Contract, the Contractor contributes less than \$1.14 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

2 For purposes of this Subparagraph 8.5.6 "Contractor" includes any subcontractor or Approved Franchisee engaged by the Contractor to perform services for the County under the Agreement. If the Contractor uses any subcontractor or franchisee to perform services for the County under the Contract, the subcontractor or franchisee shall be subject to the provisions of this Subparagraph 8.5.6. The provisions of this Subparagraph 8.5.6 shall be inserted into any such subcontract or franchise and a copy of the Living Wage Program shall be attached to the subcontract or franchise. "Employee" means any individual, who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of forty (40) hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than thirty-five (35) hours worked per week will not, in any event, be considered full time.

3 If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option period.

4 If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the County if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program. Unless the Contractor satisfies this requirement within the time frame permitted by the County, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.

5 For purposes of the Contractor's obligation to pay its Employees the applicable hourly living wage rate under this Contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract, Travel Time shall mean any period during which an employee physically travels to or from a County facility if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that

time; and 2) With respect to travel by an Employee between County facilities that are subject to two different contracts between the Contractor and the County (of which both contracts are subject to the Living Wage Program). Travel Time shall mean any period during which an Employee physically travels to or from or between such County facilities if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time.

8.5.6.2. Contractor's Submittal of Certified Monitoring Reports

The Contractor shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of the Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by the County, or any other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

8.5.6.3. Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims

During the term of this Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("Claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or Claim arising out of the Contractor's contract with the County, but instead applies to any labor law/payroll violation or Claim arising out of any of the Contractor's operations in California.

8.5.6.4. County Auditing of Contractor Records

Upon a minimum of twenty-four (24) hours written notice, the County may audit, at the Contractor's place of business, any of the Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four (4) years from the date of final payment under the Agreement. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

8.5.6.5. Notifications to Employees

The Contractor shall place County-provided living wage posters at each of the Contractor's places of business and locations where the Contractor's employees are working. The Contractor shall also distribute County-provided notices to

each of its employees at least once per year. The Contractor shall translate posters and handouts into Spanish and any other language spoken by a significant number of employees.

8.5.6.6. Enforcement and Remedies

If the Contractor fails to comply with the requirements of this Subparagraph 8.5.6, the County shall have the rights and remedies described in this Subparagraph in addition to any rights and remedies provided by law or equity.

1 Remedies for Submission of Late or Incomplete Certified Monitoring Reports. If the Contractor submits a certified monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a Withholding of Payment - If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until the Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b Liquidated Damages - It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor or from the Security Deposit payable under Subparagraph 8.22 hereof.

c Termination - The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

2 Remedies for Payment of Less Than The Required Living Wage. If the Contractor fails to pay any Employee at least the applicable hourly living wage rate, such deficiency shall constitute a material breach of this Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a Withholding Payment - If the Contractor fails to pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the Employees for that pay period. The County may hold said amount until the Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b Liquidated Damages - It is mutually understood and agreed that the Contractor's failure to pay any of its Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor or from the Security Deposit payable under Subparagraph 8.22 hereof.

c Termination - The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

3 Debarment - In the event the Contractor breaches a requirement of this Subparagraph 8.5.6, the County may, in its sole discretion, bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, not to exceed three (3) years.

8.5.6.7. Use of Full-Time Employees

The Contractor shall assign and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time employees based on staffing efficiency or County requirements for the work to be performed under the Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time employees for services provided under the Contract unless and until the County has provided written authorization for the use of same. The Contractor submitted with its proposal a full time Employee staffing plan. If the Contractor changes its full time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the County.

8.5.6.8. Contractor Retaliation Prohibited

The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this Subparagraph may

constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Agreement

8.5.6.9. Contractor Standards

During the term of the Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its Employees. If requested to do so by the County, the Contractor shall demonstrate to the satisfaction of the County that the Contractor is complying with this requirement.

8.5.6.10. Neutrality in Labor Relations

The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of Contractor's Employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

8.5.7. Contractor Responsibility and Debarment

8.5.7.1. Responsible Contractor

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Contract. It is the County's policy to conduct business only with responsible contractors.

8.5.7.2. Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, a copy of which is attached in Appendix D, "Determinations of Contractor Non-Responsibility and Contractor Debarment", part of the Contract, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five (5) years or be permanent if warranted by the circumstances, and terminate any or all existing contracts the Contractor may have with the County.

8.5.7.3. Non-Responsible Contractor

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity. Attached in Appendix D, "Listing of Contractors Debarred in Los Angeles County", is information on contractors debarred in Los Angeles County.

8.5.7.4. Contractor Hearing Board

1. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence that is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.
5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period for debarment or

terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.5.7.5. Subcontractors of Contractor

These terms shall also apply to any and all Subcontractors of County Contractors.

8.5.8. Lobbyist Ordinance

Concessionaire and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Concessionaire, shall fully comply with the County Lobbyist Ordinance. Failure on the part of Concessionaire, County lobbyist or County lobbying firm retained by Concessionaire to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Contract upon which the County may immediately terminate or suspend this Contract. See Appendix D, "Familiarity with the County Lobbyist Ordinance Certification".

8.5.9. Recycled-Content Paper

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

8.5.10. Referral and Consideration of County Employees for Employment

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract. County shall refer such former employees to Contractor. In the event that both laid-off employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

8.5.11. Registration on County WebVen

Prior to a contract award, all potential contractors must register on the County's WebVen. The WebVen contains the vendor's business profile and identifies the goods/services the business provides. Registration can be accomplished online via the internet by accessing the County's home page at http://lacounty.info/doing_business/main_db.htm.

8.5.12. Safely Surrendered Baby Law

8.5.12.1. Licensee's Acknowledgement

The Licensee acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Licensee understands that it is the County's policy to encourage all County contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Licensee's place of business. The Licensee will also encourage its sub-contractors, if any, to post this poster in a prominent position in the sub-

contractors' place of business. The County's Department of Children and Family Services will supply the Licensee with the poster to be used.

8.5.12.2. Employee Notice

The Licensee shall notify and provide to the employees, and shall require each sub-contractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Appendix D, "Safely Surrendered Baby Law" and is also available on the Internet at <http://www.babysafela.org> for printing purposes.

8.5.13. Artificial Trans Fat Reduction Program

1. Contractor agrees that it will participate in the County's Artificial Trans Fat Reduction (ATFR) Program, which mandates that no foods containing five-tenths (0.5) grams or more of artificial trans fat per serving be stored, distributed, held for service, and/or used in the preparation of any menu item or in the Concession Premises, except for food that is being served directly to consumers in a manufacturer's original sealed package. Contractor shall provide the written certification attached hereto as Appendix D, "Voluntary Artificial Trans Fat Reduction (ATFR) Program Application" stating that it has reviewed and is familiar with the requirements of the ATFR Program and will promptly obtain approval as a participant from the County's Public Health Department. Further information can be found at <http://www.lapublichealth.org/phcommon/public/eh/transfat/index.cfm>
2. **Within five (5) days of the County's execution of this Contract, Contractor shall submit to the County's Public Health Department all required application materials for participation in the ATFR Program, and shall thereafter diligently pursue approval as an ATFR participant.** Contractor's failure to do either of the foregoing shall constitute a material breach of this Contract and shall be grounds for immediate termination by the County. County shall have the right, in its sole discretion, to extend the time limit for submission of any and all application documents.
3. Upon County's approval of the Contractor's participation in the ATFR Program, Contractor shall have the same rights and obligations as any voluntary member of the ATFR Program (e.g., use of Program decal/logo, status updating, etc.), except for the right to terminate participation and as otherwise set forth herein.
4. In addition to any remedies provided the County by the ATFR Program's rules, any failure by Contractor to comply with the ATFR Program standards shall constitute a material breach of this Contract entitling the County to terminate the Contract in its entirety or, if the Contractor provides service to multiple Concession Premises, with respect to the non-compliant facility. Prior to and/or in lieu of termination, the County may also, at its discretion, do any or all of the following:
5. Impose liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from Contractor's breach of Subparagraph 8.5.13. The

parties hereby agree that under the current circumstances a reasonable estimate of such damages is \$100 per day per non-compliant facility and that Contractor shall be liable to County for that amount.

- a. Require removal of all ATFR Program logo, signage and other advertising materials from the non-compliant Concession Premises and from any other location where such materials are used by the Contractor, including without limitation menus, menu boards, and dining table tent cards.
- b. Require Contractor to cure its non-compliance with ATFR Program standards within a period prescribed by the County, in its discretion.

8.6. DISCLOSURE OF INFORMATION

The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Contract within the following conditions:

- 8.6.1. The Contractor shall develop all publicity material in a professional manner; and
- 8.6.2. During the term of this Contract, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's Contract Manager. The County shall not unreasonably withhold written consent.
- 8.6.3. The Contractor shall not possess any interest, title, or right to any County case data or records. Contractor is prohibited from disclosing any identified or unidentified raw County data to any other party, or from combining any identified or unidentified raw County data with that of any other Contractor client or other party into any database or report format for any purpose whatsoever without the express, written authorization of the County.

8.7. EMPLOYMENT ELGIBILITY VERIFICATION

- 8.7.1. Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.O. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period described by law.
- 8.7.2. Contractor shall indemnify, defend, and hold harmless the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

8.8. ENFORCEMENT

The Director shall be responsible for the enforcement and management of this License Agreement on behalf of the County and shall be assisted therein by those officers and employees of the County having duties in connection with the administration thereof.

8.9. EVENTS OF DEFAULT

8.9.1. Licensee's abandonment, vacation or discontinuance of operations of the Concession Premises.

8.9.2. The failure of Licensee to punctually pay or make the payments required hereunder when due, where the delinquency continues beyond ten (10) days following written notice for payment thereof.

8.9.3. The failure of Licensee to operate in the manner required by this License, where such failure continues for more than ten (10) days after written notice from the Department to correct the conditions therein specified.

8.9.4. The failure of Licensee to keep, perform, and observe all other promises, covenants, conditions and agreements set forth in this Agreement, where such failure continues for more than ten (10) days after written notice from the Department for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and Licensee shall have commenced to perform whatever may be required to cure the particular default within ten (10) days after such notice and continues such performance diligently, said time may be waived in the manner and to the extent allowed by the Director.

8.9.5. The filing of a voluntary petition in bankruptcy; the appointment of any receiver of Licensee's assets; the making of a general assignment for the benefit of creditors; a petition or answer seeking an arrangement for the reorganization of Licensee under any Federal Reorganization Act, including petitions or answers under Chapters X or XI of the Bankruptcy Act; the occurrence of any act which operates to deprive Concessionaire permanently of the rights, powers and privileges necessary for the proper conduct and operations of the Concession; the levy of any attachment or execution which substantially interferes with attachment or execution is not vacated, dismissed, stayed or set aside within a period of sixty (60) days.

8.9.6. Determination by the Director, the State Fair Employment Commission, or the Federal Equal Employment Opportunity Commission of discrimination, or having been practiced by Concessionaire in violation of State or Federal laws thereon.

8.9.7. Transfer of the controlling interest of Licensee to persons other than those who are in control at the time of the execution of this Contract without approval by the Director.

8.10. FAIR LABOR STANDARDS

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor

Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

8.11. FORCE MAJEURE (Time Extensions)

In the event that any party hereto is delayed or hindered from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials not related to the price thereof, failure of power, restrictive governmental laws and regulations, riots, insurrection, war or other reasons of a like nature beyond the control of such party, then performance of such acts shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of the delay.

8.12. GOVERNING LAW, JURISDICTION AND VENUE (Interpretation)

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

8.13. HOLD HARMLESS AND INDEMNIFICATION

The Licensee agrees to indemnify, defend, and save harmless the County, its agents, officers, and employees, from and against any and all liability, including liability covered under the California Workers' Compensation laws, expense, including defense costs and legal fees, and claims for damage of any nature whatsoever, arising from or connected with the use and/or the conduct of the Authorized Activity or any other activity in, on, at or from the Premises or any other area of the Beach by the Licensee and/or the agents, servants employees and invitees of the Licensee, including, but not limited to, liability, expense, and claims for personal injury, bodily injury, death or property damage caused by negligence, creation or maintenance of a dangerous condition of property, breach of expressed or implied warranty of product, defectiveness of product, or intentional infliction of harm; non-payment for labor, materials, appliances or power, performed on, or furnished or contributed to the Premises; infringement of a patent or copyright or disclosure of a trade secret; violation of state and federal anti-trust laws; violation of state and federal civil rights laws; and violation of state and federal alien registration and work laws. This promise of indemnity shall extend to all the covered liability, expenses, and claims, notwithstanding that the act, omission, or condition giving rise to any such liability, expense, or claim is proximately caused by the active or passive negligence of the County, its agents, servants, and employees, relating to the use and/or the conduct of the Authorized Activity in, on, at or from the Premises or any other area of the Beach by the Licensee or the agents, servants, employees and invitees of the Licensee, the enforcement of this License, or a dangerous or defective condition of the Premises or any other area of the Beach that is created by an act or omission of the Licensee or the agents, servants, and employees of the Licensee. The Licensee's duty to indemnify the County shall survive the expiration or other termination of this License.

The obligations assumed in Subparagraph 8.13 by the Licensee for the protection of the County from the third party liability described in Subparagraph 8.13 shall be deemed to extend to the State of California and the City of Los Angeles in the event the Premises are located on land that is owned and/or leased by either entity, and the Licensee acknowledges and agrees to provide the same protection to each additionally named entity.

8.14. INDEPENDENT CONTRACTOR

This Agreement is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Contract.

8.15. INSURANCE

Without limiting the Contractor's indemnification of the County and during the term of this Contract, the Contractor shall provide and maintain, and shall require all of its subcontractors to maintain, the programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the County. Such coverage shall be provided and maintained at the Contractor's own expense.

8.15.1. Delivery of Insurance. Copies of original insurance policies, endorsements, if applicable, or other evidence of coverage satisfactory to the County shall be delivered to the following County representative prior to commencing services under this Contract:

Los Angeles County Department of Beaches and Harbors
Asset Management Division
Attn: Robert Nickens
13837 Fiji Way
Marina del Rey, CA 90292

8.15.2. Evidence of Insurance. Such copies of original insurance policies, endorsements, if applicable, or other evidence of coverage satisfactory to the County, shall:

- Specifically identify this Contract;
- Clearly evidence all coverage required in this Contract;
- Contain the express condition that the County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;
- Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts,

its officials, officers and employees as insured's for all activities arising from this Contract;

- Identify any deductibles or self-insured retentions for the County's approval. The County retains the right to require the Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to the County, or, require the Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.15.3. Insurer Financial Ratings

Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII unless otherwise approved by the County.

8.15.4. Failure to Maintain Coverage

Failure by the Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to the County, shall constitute a material breach of the Contract upon which the County may immediately terminate or suspend this Contract. The County, at its sole option, may obtain damages from the Contractor resulting from said breach.

8.15.5. Notification of Incidents, Claims or Suits. Contractor shall report to the County:

- Any accident or incident relating to services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit against the Contractor and/or the County. Such report shall be made in writing within 24 hours of occurrence.
- Any third party claim or lawsuit filed against the Contractor arising from or related to services performed by the Contractor under this Contract.
- Any injury to a Contractor employee that occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County Contract Manager.
- Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to the Contractor under the terms of this Contract.

8.15.6. Compensation for County Costs

In the event that the Contractor fails to comply with any of the indemnification or insurance requirements of this Contract, and such failure to comply results in any costs to the County, the Contractor shall pay full compensation for all such costs incurred by the County.

8.15.7. Insurance Coverage Requirements for Subcontractors

The Contractor shall ensure that any and all subcontractors performing services under this Contract meet the insurance requirements of this Contract by either:

- Providing copies of original insurance policies, endorsements, if applicable, or other evidence of coverage satisfactory to the County covering the activities of subcontractors, or
- Providing copies of original insurance policies, endorsements, if applicable or other evidence of coverage satisfactory to the County submitted by subcontractors evidencing that sub-contractors maintain the required insurance coverage. The County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

8.15.8. Insurance Coverage

A. Automobile Liability. Insurance written on ISO policy form CA 00-01, or its equivalent, with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for any “any auto.”

B. General Liability. Insurance written on ISO policy form CG 00-01 or its equivalent with limits of not less than the following:

- General Aggregate: \$ 2 million
- Products/Completed Operations Aggregate: \$ 2 million
- Personal and Advertising Injury: \$ 1 million
- Fire/Legal Liability \$ 50,000
- Each Occurrence: \$ 1 million

- For Hang Gliding only:
- General Aggregate \$ 4 million
- Products/Completed Operations Aggregate: \$ 4 million
- Personal and Advertising Injury: \$ 1 million
- Fire/Legal Liability \$ 50,000
- Each Occurrence: \$ 2 million

C. Workers’ Compensation and Employer’s Liability. Insurance providing workers’ compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which the Contractor is responsible.

In all cases, the above insurance also shall include Employers’ Liability coverage with limits of not less than the following:

- Each Accident: \$1 million
- Disease - policy limit: \$1 million
- Disease - each employee: \$1 million

D. Property Coverage:

Such insurance shall be endorsed naming the County of Los Angeles as loss payee, provide deductibles of no greater than five percent (5%) of the property value, and shall include:

Real Property and All Other Personal Property - Special form (“all-risk”) coverage for the full replacement value of County-owned or leased property.

8.16. MEETINGS

All meetings between County and Licensee will be held at mutually agreed upon locations in Los Angeles County approved by the Director.

8.17. NON-COMPLIANCE AND LIQUIDATED DAMAGES

8.17.1. In the event the Department determines that there are deficiencies in Licensee's operations authorized and required hereunder, the Director will provide, as specified in Subparagraph 8.9 hereof (Events of Default), a written notice to the Licensee to correct said deficiencies within the time frames specified in this Contract.

8.17.2. In the event that Licensee fails to correct the deficiencies within the time frames prescribed in this Contract, the Director may, at their option: (1) use the Security Deposit as provided for herein, (2) exercise its rights as provided for in the Appendix B-Statement of Work and Additional Contract Provisions", Subparagraph 2.4, "Right of Entry", (3) terminate the Agreement, and/or (4) assess liquidated damages. The parties agree that it would be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Licensee to comply with the obligations for Concession operations herein authorized and required. The parties hereby agree that under the current circumstances a reasonable amount of such damage is \$250.00 per day for each day of the period of time that the deficiencies exist, and that Licensee shall be liable to County for liquidated damages in said amount.

8.18. NOTICE OF DISPUTE

The Contractor shall bring to the attention of the Department any dispute between the County and the Contractor regarding the performance of services as stated in this Agreement. If the Department is not able to resolve the dispute, the Director, or designee shall resolve it.

8.19. NOTICES

8.19.1. County

Notices required or permitted to be given under the terms of this Contract or by any law now or hereafter in effect may, at the option of the party giving notice, be given by personal delivery or by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States Post Office or substation thereof, or any public mailbox.

The notices and envelopes containing same to County shall be addressed to:

Los Angeles County Department of Beaches and Harbors
Asset Management Division
Attn: Beach Concessions
13837 Fiji Way
Marina del Rey, CA 90292

8.19.2. Contractor

The notices and envelopes containing same to Contractor shall be addressed to the name and address as shown on page "Summary License Provisions".

Addresses may be changed by either party by giving ten (10) days prior written notice thereof to the other party. The Director shall have the authority to issue all notices or demands required or permitted by the County under this License.

In the event of suspension or termination of this License, notices may also be given upon personal delivery to any person whose actual knowledge of such suspension or termination would be sufficient notice to License or County.

8.20. PUBLIC RECORDS ACT

8.20.1. Any documents submitted by Contractor; all information obtained in connection with the County's right to audit and inspect Contractor's documents, books, and accounting records pursuant to the Appendix B-Statement of Work and Additional Contract Provisions, Paragraph 3.0 "Accounting Records (Retention/Inspection)"; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records.

8.20.2. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret," to the foregoing "confidential," or "proprietary." The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.20.3. In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret," "confidential," or "proprietary," Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in such action or liability arising under the Public Records Act.

8.21. SALES PROCEEDS, COUNTY'S NON-RESPONSIBILITY FOR

The Licensee represents it has made its own determinations for the profitability and viability of the Concession herein, including without limitation traffic counts of possible patrons and previous sales history, if any, and has not relied on any representations made by the County or its staff or representatives. The County assumes no liability for any sales losses whatsoever caused by the reduction of its staff or public clientele, damages to the Premises, relocation of patron traffic and access, boycotts, strikes, relocation of Premises, or any other reason whatsoever.

8.22. SECURITY DEPOSIT

8.22.1. Prior to the commencement of the License Term, the Licensee shall pay to the County's Department of Beaches and Harbors an amount that shall be equal to thirty percent (30%) of the annual rent for the first License Year. In lieu of payment, the Licensee may deposit this amount in a bank, the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) or a savings and loan, the deposits of which are insured under Title 4 of the National Housing Act (12 U.S.C. 1724 et seq.), provided that a certificate of deposit is delivered to the Director giving the County the sole right to withdraw any or all of said amount during the License Term and provided further that upon expiration of the then existing certificate of deposit, Licensee shall on or prior to the expiration of the then existing certificate of deposit deliver to the Director evidence satisfactory to Director of a new certificate of deposits. The Licensee shall be entitled to any and all interest accruing from the certificate of deposit.

8.22.2. The Security Deposit shall serve as security for the faithful performance of all covenants, promises and conditions assumed by Concessionaire herein, and may be applied in satisfaction or mitigation of damages arising from a breach thereof, including, but not limited to, delinquent payments, liquidated damages, correction of maintenance deficiencies, loss of revenue due to abandonment, vacation or discontinuance of concession operations; discrimination; refunding of deposits for scheduled future events which are required to be canceled due to abandonment, vacation or discontinuance of concession operations, completion of construction and payment of mechanic's liens. Application of amounts on deposit in satisfaction or mitigation of damages shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this License.

8.22.3. In the event any or all of the Security Deposit is applied in satisfaction or mitigation of damages, Concessionaire shall immediately deposit such sums as are necessary to restore the Security Deposit to the full amount required hereunder.

8.22.4. The Security Deposit shall be returned to Concessionaire upon termination of this Contract, less any amounts that may be withheld there from by the County as heretofore provided.

8.23. SEVERABILITY

If any provision of this Contract is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall not be affected thereby and shall remain in full force and effect.

8.24. SUB-CONTRACTING

Notwithstanding any reference to sub-contracting found in other sections of this Contract, the requirements of this Contract may not be sub-contracted. Any attempt by the Concessionaire to subcontract may be deemed a material breach of this Contract.

8.25. SURRENDER

Upon expiration of the term hereof, or cancellation thereof as herein provided, Concessionaire shall peaceably vacate the Concession Premises and any and all improvements located thereon and deliver up the same to County in a clean condition.

8.26. TAXES AND ASSESSMENTS

8.26.1. The property described herein shall be subject to possessory interest taxation or assessment thereon, and in the event thereof, Concessionaire shall pay before delinquency all lawful taxes, assessments, fees or charges which at any time may be levied by the State, County, City or any other tax or assessment-levying body upon the Concession Premises and any improvements located thereon.

8.26.2. Licensee shall also pay all taxes, assessments, fees and charges on goods, merchandise, fixtures, appliances and equipment owned or used thereon.

8.27. TRANSFERS

8.27.1. Licensee shall not, without written consent of the Director, assign, hypothecate, or mortgage this Contract or lease or license any portion of the Concession Premises. Any attempted assignment, sale, hypothecation, mortgage, lease, license or transfer (collectively "transfer") without the consent of the Director shall render this Contract terminable by County as set forth in Subparagraphs 8.1, "Assignment and

Delegation". In the event the Director approves the transfer of this Agreement within the first thirty-six (36) months of its term, Licensee shall pay the County an administrative fee equal to ten percent (10%) of the sales price or other consideration given for the interest transferred.

8.27.2. Each and all of the provisions, agreements, terms, covenants and conditions herein contained to be performed by Licensee shall be binding upon any transferee thereof.

8.27.3. The Licensee shall not be transferable by testamentary disposition of the state laws of interstate succession, as the rights, privileges, and use conferred by this Contract shall terminate prior to the date for expiration thereof in the event of the death of Concessionaire occurring within the term herein provided. Additionally, neither this Agreement nor any interest therein shall be transferable in proceedings in attachment or execution against Licensee, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Licensee, or by any process of law including proceedings under Chapter X or XI of the Bankruptcy Act.

8.27.4. Shareholders or partners of Licensee may transfer, sell, exchange, assign or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment or divestment is affected in such a way as to give control of Concessionaire to any persons, corporations, partnership or legal entity other than those with the controlling interest at the time of the execution of this Agreement, Director's approval thereof shall be required. Consent to any such transfer shall be refused if the Director finds that the transferee is lacking in experience, financial ability to conduct the Concession, the proposed sale is an attempt to circumvent Subparagraph 8.27.1 above, or for other just cause as determined by the Director.

8.28. VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

8.29. WAIVER

No waiver by the County of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.30. ENTIRE AGREEMENT

8.30.1. This document and the Exhibits and Attachments attached hereto constitute the entire agreement between the County and Licensee for the Authorized Activity at the Premises contemplated hereby. All other agreements, promises and representations with respect thereto, other than contained herein, are expressly revoked, as it has been the intention of the parties to provide for a complete integration within the provisions of this document, the terms, conditions, promises and covenants relating to the Concession Premises to be used in the conduct thereof. The unenforceability, invalidity, or illegality of any provision of this

Contract shall not render the other provisions thereof unenforceable, invalid or illegal.

8.30.2. This Contract may be modified only by further written agreement between the parties hereto.

8.31. INTERPRETATION

Unless the context of this Contract clearly requires otherwise: (i) the plural and singular numbers shall be deemed to include the other; (ii) the masculine, feminine and neuter genders shall be deemed to include the others; (iii) "or" is not exclusive and (iv) "includes" and "including" are not limiting.

9.0 TERMINATION

9.1. CONVENIENCE

9.1.1. Performance of services under this Contract may be terminated by County in whole or in part when such action is deemed by the Board of Supervisors to be in the County's best interest. Termination of work shall be effected by delivery to Contractor of a thirty (30) calendar day prior written "Notice of Termination" specifying the extent to which the performance of work is to be terminated and the date upon which such termination becomes effective.

9.1.2. After receipt of a Notice of Termination and except as otherwise directed by the County, the Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as has not been terminated by such notice.

9.1.3. All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract shall be maintained by the Contractor in accordance with the Appendix B-Statement of Work and Additional Contract Provisions, Paragraph 3.0, "Accounting Records (Retention/Inspection)".

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed and the County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof on, the day and year first above written.

CONTRACTOR:

By _____
Name

Title

COUNTY OF LOS ANGELES

By _____
(Mayor/Chairman), Board of Supervisors

ATTEST:

SACHI HAMAI
Executive Officer-Clerk
of the Board of Supervisors

By _____

APPROVED AS TO FORM:

Raymond G. Fortner, Jr.
County Counsel

By _____
Principal Deputy County Counsel