

APPENDIX A



LICENSE

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

(LICENSEE)

CONCESSION SERVICES AT COUNTY OWNED

AND OPERATED BEACHES

WILL ROGERS (CHAUTAUQUA)

TABLE OF CONTENTS

SAMPLE LICENSE	4
RECITALS	4
1.0 APPLICABLE DOCUMENTS	4
2.0 DEFINITIONS	4
3.0 AUTHORIZED ACTIVITY	6
4.0 SCOPE OF WORK	7
5.0 HOURS/DAY OF WORK	8
5.1 WORK SCHEDULES.....	8
5.2 LICENSES, PERMITS, REGISTRATION AND CERTIFICATES	9
5.3 MATERIALS AND EQUIPMENT	9
6.0 RENT	9
7.0 SALES PROCEEDS, COUNTY’S NON-RESPONSIBILITY FOR	10
8.0 SECURITY DEPOSIT	10
9.0 CONCESSION PREMISES	11
9.2 CONSTRUCTION BY COUNTY AFFECTING PREMISES	12
9.3 DESTRUCTION OF CONCESSION PREMISES	13
9.4 LICENSES, PERMITS, REGISTRATION AND CERTIFICATES	13
9.5 RIGHT OF ENTRY	13
10.0 CONCESSIONAIRE’S STAFF AND EMPLOYMENT PRACTICES	14
10.1 CONCESSION PREMISES RULES	14
11.0 EASEMENTS	14
12.0 MAINTENANCE / DEMAND FOR REIMBURSEMENT	14
13.0 NON-INTERFERENCE	15
14.0 PROGRAMMED EVENTS	15
15.0 SAFETY	15
16.0 SANITATION	15
17.0 SECURITY	16
18.0 SIGNS	17
19.0 TRADE FIXTURES AND EQUIPMENT	18
20.0 UTILITIES	18
21.0 INVENTORY AND MERCHANDISE, MENU, HEALTHY FOOD CHOICES, PRICING AND POSTING, PAYMENT, AMENDMENTS	18
21.1 INVENTORY AND MERCHANDISE	18
21.2 MENU - SELECTION (FOOD PRODUCTS) AND REMOVAL.....	19
21.3 MENUS, HEALTHY FOOD CHOICES, NUTRITIONAL INFORMATION	19
21.4 PRICING AND POSTING.....	21
21.5 PAYMENT – POINT OF SALE MACHINES.....	21
22.0 QUALITY OF GOODS AND SERVICES – REMOVAL	21
23.0 TERM OF LICENSE	22
24.0 TERMS AND CONDITIONS	23

24.1	CANCELLATION	23
24.2	SEVERABILITY	23
24.3	SURRENDER	23
24.4	TAXES AND ASSESSMENTS	23
24.5	TRANSFERS	24
24.6	ENTIRE AGREEMENT	25
24.7	INTERPRETATION	25
24.8	ENFORCEMENT	25
24.9	EVENTS OF DEFAULT	25
25.0	ADMINISTRATION OF LICENSE – LICENSEE	26
25.1	CONTRACTOR’S PROJECT MANAGER	26
26.0	CONCESSIONAIRE’S STAFF AND EMPLOYMENT PRACTICES	26
26.1	STAFFING RESOURCES – LEVEL/EXPERIENCE	26
26.2	TRAINING	27
26.3	LICENSEE’S TELEPHONE	27
26.4	APPROVAL OF LICENSEE’S STAFF	27
26.5	BACKGROUND AND SECURITY INVESTIGATIONS	27
26.6	CONFIDENTIALITY	28
27.0	STANDARD TERMS AND CONDITIONS	28
27.1	AMENDMENTS	28
27.2	ASSIGNMENT AND DELEGATION	28
27.3	AUTHORIZATION WARRANTY	29
27.4	COMPLAINTS	29
27.5	COMPLIANCE WITH APPLICABLE LAW	30
27.6	COMPLIANCE WITH CIVIL RIGHTS LAWS	30
27.7	COMPLIANCE WITH THE COUNTY’S JURY SERVICE PROGRAM	30
27.8	CONFLICT OF INTEREST	31
27.9	CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST	32
27.10	CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS	32
27.11	CONTRACTOR RESPONSIBILITY AND DEBARMENT	32
27.12	LICENSEE’S ACKNOWLEDGEMENT OF COUNTY’S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW	33
27.13	LICENSEE’S WARRANTY OF ADHERENCE TO COUNTY’S CHILD SUPPORT COMPLIANCE PROGRAM	34
27.14	COUNTY’S QUALITY ASSURANCE PLAN	34
27.15	DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS	34
27.16	EMPLOYMENT ELIGIBILITY VERIFICATION	34
27.17	FACSIMILE REPRESENTATIONS	35
27.18	FAIR LABOR STANDARDS	35
27.19	FORCE MAJEURE	35
27.20	GOVERNING LAW, JURISDICTION, AND VENUE	35
27.21	INDEPENDENT CONTRACTOR STATUS	36
27.22	INDEMNIFICATION	36
28.0	GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE	37
28.1	EVIDENCE OF COVERAGE AND NOTICE TO COUNTY	37
28.2	ADDITIONAL INSURED STATUS AND SCOPE OF COVERAGE	38
28.3	CANCELLATION OF OR CHANGE IN INSURANCE	38
28.4	FAILURE TO MAINTAIN INSURANCE	38
28.5	INSURER FINANCIAL RATINGS	39
28.6	LICENSEE’S INSURANCE SHALL BE PRIMARY	39
28.7	WAIVERS OF SUBROGATION	39
28.8	SUB-CONTRACTOR INSURANCE COVERAGE REQUIREMENTS	39

28.9	DEDUCTIBLES AND SELF-INSURED RETENTIONS (SIRs)	39
28.10	CLAIMS MADE COVERAGE	39
28.11	APPLICATION OF EXCESS LIABILITY COVERAGE	39
28.12	SEPARATION OF INSUREDS.....	39
28.13	ALTERNATIVE RISK FINANCING PROGRAMS.....	40
29.0	INSURANCE COVERAGE	40
29.4	UNIQUE INSURANCE COVERAGE	40
30.0	LIQUIDATED DAMAGES.....	41
31.0	NONDISCRIMINATION AND AFFIRMATIVE ACTION	41
32.0	NON EXCLUSIVITY	42
33.0	NOTICE OF DELAYS.....	42
34.0	NOTICE OF DISPUTES	42
35.0	NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT	42
36.0	NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW	43
37.0	NOTICES	43
38.0	PROHIBITION AGAINST INDUCEMENT OR PERSUASION.....	43
39.0	PUBLIC RECORDS ACT	43
40.0	PUBLICITY	44
41.0	RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT	44
42.0	RECYCLED BOND PAPER	46
43.0	SUBCONTRACTING.....	46
44.0	TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM.....	47
45.0	TERMINATION FOR CONVENIENCE	47
46.0	TERMINATION FOR DEFAULT.....	47
47.0	TERMINATION FOR IMPROPER CONSIDERATION.....	48
48.0	TERMINATION FOR INSOLVENCY	50
49.0	TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE.....	50
50.0	VALIDITY.....	50
51.0	WAIVER.....	50
52.0	WARRANTY AGAINST CONTINGENT FEES	50
53.0	WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM	51
54.0	TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM	51
55.0	UNIQUE TERMS AND CONDITIONS.....	51
55.1	ENVIROMENTAL.....	51
55.2	HEALTH AND SAFETY.....	51
55.3	ADA ACCOMMODATIONS	52
55.4	ADVERTISING AND PROMOTIONAL PRODUCTS	52
55.5	REGISTRATION ON COUNTY WEBVEN.....	53
55.6	ARTIFICIAL TRANS FAT REDUCTION PROGRAM	53

55.7 GREEN INITIATIVES55

56.0 LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE PROGRAM 55

57.0 TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM..... 55

SUMMARY LICENSE PROVISIONS

The basic terms of this License are summarized as follows:

- (a) County: The County of Los Angeles

- (b) Licensee; Concessionaire:
 - Name: _____
 - Address: _____
 - _____
 - Phone: _____
 - E-mail: _____

Authorized Activity (Paragraph 3.0): Mobile Food Preparation Units (MFPU), Food Service Carts (FSC) Concession Stand (including Burton Chace Park) Bike & Skate Rentals Hang Gliding

See Appendix C, for definitions.

Exclusive Zone (Concession Stands only) (Subparagraphs 3.4 and 3.5): 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 3.5.

Rent (Paragraph 6.0): The annual rent for the first License Year, \$_____ (“Commencement Rent”) shall be payable monthly per schedule and shall be adjusted annually by the Consumer Price Index.

Term of License (Paragraph 26.0): Four (4) years and ten (10) months, commencing May 1, 2014 (“Effective Date”) and terminating March 31, 2019 (“Expiration Date”) with five one-year options.

Concession Premises (Paragraph 9.0): See Appendix C.

Trade
Fixtures:

As appropriate for the Authorized
Activity.

County
Owned Trade
Fixtures:

See Appendix C.

**SAMPLE LICENSE
BETWEEN
COUNTY OF LOS ANGELES
AND

FOR
CONCESSION SERVICES**

This License and Exhibits made and entered into this ____ day of _____, 2014 by and between the County of Los Angeles, hereinafter referred to as County and _____, hereinafter referred to as Licensee. Concession is located at _____.

RECITALS

WHEREAS, the County may license with private businesses for Concession 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 and Authorized Activity" of this License; and

WHEN certain requirements are met; and

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

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

WHEREAS, the Licensee is a private firm specializing in providing Concession Services; and

WHEREAS, the Director, Department of Beaches and Harbors is the authority for executing the license;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

1.0 APPLICABLE DOCUMENTS

The following forms are part of and are integral to this License. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base License and the attachments (Exhibits, Forms) or between attachments, such conflict or inconsistency shall be resolved by giving precedence first to the License and then to the attachments.

2.0 DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

Authorized Activity: Scope of concession services authorized under the License as described in this IFB.

Bidder; Proposer: Any person or entity authorized to conduct business in California who submits a bid.

Board; or Board of Supervisors: The Board of Supervisors of the County of Los Angeles.

Concession; Concession Services: The privilege of engaging in the commercial activities authorized herein on the designated public property.

Contract; License; Concession License: Agreement executed between County and Contractor. It sets forth the terms and conditions for the issuance and performance of the concession services.

Contractor: The sole proprietor, partnership, or corporation that has entered into a contract with the County to perform or execute the work covered by the License.

Contractor's Project Manager: The individual designated by the Contractor to administer the Contract operations after the Contract award.

County: County of Los Angeles.

County Counsel: Legal counsel of the County of Los Angeles.

County Contract Project Manager: Person designated by County with authority for County on contractual or administrative matters relating to this Contract.

Day(s): Calendar day(s) unless otherwise specified.

Department: The Department of Beaches and Harbors of the County of Los Angeles.

Director: The Director of the Department of Beaches and Harbors of the County of Los Angeles.

Fiscal Year: The twelve (12) month period beginning July 1st and ending the following June 30th.

Food Service Cart: A mobile food cart in which limited food preparation occurs and can include hot dog, espresso/cappuccino, popcorn, churro/pretzel, and prepackaged food carts.

Health Department: The Health Department of the County of Los Angeles.

Health Officer: Health Officer of the County of Los Angeles or an authorized representative thereof.

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.

License; Contract; Agreement: Agreement executed between County and Licensee, including all attachments and exhibits and forms, as may be amended from time to time. It sets forth the terms and conditions for the issuance and performance of the Concession.

License Year: A period of twelve consecutive calendar months commencing with Effective Date, or anniversaries thereof, with the exception of the fifth and last year (in case of option term) of the License Term shall have a shortened duration of ten (10) consecutive calendar months.

Mobile Food Preparation Units (MFPU): Any vehicle upon which ready-to-eat food is prepared, cooked, wrapped, packaged, or proportioned for service, sale or distribution. (Title 8, Consumer Protection and Business Regulations, Chapter 8.04 Public Health Licenses)

Parking Lot Operator: The County's beach parking lot manager.

Portable Building: A temporary self-supporting structure not to exceed 8 feet tall, 8 feet wide and 40 feet long provided by Licensee during the course of business offering hang gliding recreation and lessons.

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.

State: The State of California.

3.0 AUTHORIZED ACTIVITY

- 3.1 Pursuant to the provisions of this License, the Licensee shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth herein.
- 3.2 If the Licensee provides any tasks, deliverables, goods, services, or other work, other than as specified in this License, the same shall be deemed to be a gratuitous effort on the part of the Licensee, and the Licensee shall have no claim whatsoever against the County.
- 3.3 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 Trade Fixtures, as indicated in the Summary License Provisions, on the Premises in conjunction with the Authorized Activity. The number and location of such Trade Fixtures shall be approved in writing by the Director.
- 3.4 Subparagraph 3.4 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. Licensee must maintain a letter grade rating of "B" or higher from the Los Angeles County Department of Health Services during the length of the entire License, if applicable. Failure to maintain a letter grade rating of "B" or higher may result in the cancellation of the License.
- 3.5 Subparagraph 3.5 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. Licensee must maintain a letter grade rating of "B" or higher from the Los Angeles County Department of Health Services during the length of the entire License, if applicable. Failure to maintain a letter grade rating of "B" or higher may result in the cancellation of the License.

- 3.6 Subparagraph 3.6 is only applicable to the Licenses for selling food and beverage from Food Service Carts. 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.
- 3.7 Subparagraph 3.7 is only applicable to the Licenses for Bike and Skate 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.
- 3.8 The Authorized Activity is strictly limited to the activity, as referenced in the Summary License Provisions, and in Appendix C, "Concession Premises, Authorized Activity and County Owned Trade Fixtures", and shall not be construed to grant Licensee any rights that are not specifically set forth in this agreement.
- 3.9 The County assumes no responsibility for protecting the Licensee from illegal vendors in the vicinity of the Premises or Exclusive Zone.
- 3.10 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.
- 3.11 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.
- 3.12 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 SCOPE OF WORK

- 4.1 The Licensee shall provide concession services at County of Los Angeles owned and operated beaches and Burton Chace Park. Licensee shall provide concession services (Authorized Activity) as specified in the License Agreement. Authorized Activities are as follows: Mobile Food Preparation Unit (MFPU), Food Service Cart (FSC), Concession Stand, Bike and Skate Rentals, and Hang Gliding. The Licensee shall also pay annual rent over the License Term. The County shall provide

Concessionaire the right to conduct the Authorized Activity within the Concession Premises, as defined in License Agreement.

- 4.2 County of Los Angeles owned and operated beaches are located along 31 miles of non-contiguous coastline. Los Angeles County beaches are a vacation destination, and attract millions of visitors each year. Burton Chace Park, located in Marina del Rey is the largest small craft harbor in the United States. It is the home of the County of Los Angeles Summer Concert Series, which has seen a significant increase in attendance since its inception.
- 4.3 The Licensee shall conduct an effective and successful concession services operation to achieve/deliver the following:
- 4.3.1. Prepare and serve quality food for visitors to County owned and operated beaches and Burton Chace Park at reasonable prices during the designated days and hours of operation;
 - 4.3.2. Maintain consistently acceptable standards of health and cleanliness for its entire staff;
 - 4.3.3. Maintain clean and sanitary concession facilities, particularly in areas utilized in the preparation of food services;
 - 4.3.4. Use County furnished resources in a prudent and efficient manner;
 - 4.3.5. Maintain safe and serviceable equipment utilized for concession services to include: hang gliding and bike and skate rentals; and
 - 4.3.6. Comply with License provisions and submit noted records and reports in a timely manner.

5.0 HOURS/DAY OF WORK

The Licensee shall engage in the Authorized Activity from the Premises every day from Memorial Day Weekend (except for the commencement year for which the Authorized Activity shall start on May 1, 2014, subject to date of awarding of license), through Labor Day Weekend of each year during the License Term, except when a condition exists which is beyond the control of the Licensee, including but not limited to fire, earthquake, flood, storm, war, riot or insurrection, or other similar event that prevents the Licensee from engaging in the Authorized Activity from the Premises. The minimum daily hours of operation during this period of time shall be from 10 A.M. to 5 P.M. Director shall have the right to change the mandatory operational days and hours as Director deems appropriate. Department staff will conduct periodic checks to ensure that Licensees are in compliance with days and hours of operation guidelines. Failure to comply with minimum daily hours of operation requirement shall be considered an event of default under the License Agreement.

5.1 WORK SCHEDULES

Licensee shall submit for review and approval a work schedule for each facility to the County Contract Project Manager within ten (10) days after awarding of license. Said work schedules shall be set on an annual calendar identifying all the required on-going maintenance tasks and task frequencies. The schedules shall list the time frames by day of the week, morning, and afternoon the tasks will be performed.

Licensee shall submit revised schedules when actual performance differs substantially from planned performance. Said revisions shall be submitted to the County Contract Project Manager for review and approval within ten (10) working days prior to scheduled time for work.

5.2 Licenses, Permits, Registration and Certificates

Licensee shall obtain and maintain in effect during the term of the Contract, all licenses, permits, registrations and certificates, if any, required by law, which are applicable to the performance of this agreement, and shall further ensure that all of its officers, employees and agents who perform services hereunder obtain and maintain in effect during the term of this License, all licenses, permits, registrations and certificates required by law which are applicable to their performance of services hereunder.

5.3 Materials and Equipment

The purchase of all materials/equipment to provide the needed services is the responsibility of the Licensee. Licensee shall use materials and equipment that are safe for the environment and safe for use by the employee.

6.0 RENT

- The Licensee shall pay the County the annual rent over the License Term.
- 6.1 The annual rent for the first License Year of the License Term shall be the amount of Commencement Rent, as defined in the Summary License Provisions, Section (e).
 - 6.2 Subparagraph 6.3 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 prorated and paid on 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.
 - 6.3 Subparagraph 6.4 is only applicable to licenses for the selling of food and beverage services from Mobile Food Preparation Units and Food Service Carts. 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.
 - 6.4 The Licensee acknowledges and agrees that the weighted proration of the rent under Subparagraphs 6.3 and 6.4 is a fair and equitable way for the rent to be paid in consideration of the seasonality (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.
 - 6.5 The monthly payment shall be made by check or bank 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.
 - 6.6 In the event a monthly payment is not received 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.
 - 6.7 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.

- 6.8 The index ("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.
- 6.9 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.
- 6.10 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.

7.0 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.

8.0 SECURITY DEPOSIT

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. Lessee shall have the right to maintain the Security Deposit in the form of cash or in the form of a certificate of deposit, letter of credit or other approved investment instrument acceptable to County with respect to form, content and issuer.

In lieu of payment, the Licensee may deposit the cash or certificate of deposit 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.

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.

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 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.

9.0 CONCESSION PREMISES

- 9.1.1. 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.
- 9.1.2. The License does not confer any special parking privileges on the Licensee. As the sole discretion of the Director, up to two (2) parking passes will be issued for each Concession Premises adjacent to a County owned and controlled parking lot for vehicular parking while engaged in the Authorized Activity.
- 9.1.3. 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. The Director's consent may be conditioned upon the payment of additional rent or other considerations.
- 9.1.4. 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, if applicable, 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.
- 9.1.5. 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.
- 9.1.6. The Licensee shall make no alterations to the Premises or construct any improvements on the Premises except as specifically provided for in the agreement.
- 9.1.7. 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.
- 9.1.8. 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.

- 9.1.9. Subparagraph 9.1.9 is only applicable to Licenses offering hang gliding equipment rental and lessons. The Licensee may install a temporary Portable Building 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 D-Form 18, "Waiver of Liability, Assumption of Risk, and Indemnity Agreement", for an example of said agreement.

9.2 Construction By County Affecting Premises

- 9.2.1. In the event County shall construct or cause to be constructed a new facility for the Concession or carry out any construction that affects the concession operation, this License shall continue in full force and effect, except that the payment to be made by Licensee will be abated and/or relief afforded to the extent that the County may determine the construction activity interferes with the Concession. In order for rent abatements to be considered, construction activity must cause substantial interference with continuous operation of the Premises and must prevent Licensee from conducting the Authorized Activity. Abatements will not be granted for construction activity which does not cause substantial interference with continuous operation of the Concession Premises, which includes, but is not limited to: maintenance or repair of the Premises which does not result in a closure of concession business in excess of fourteen (14) days, infrastructure or utility maintenance (including repair and/or replacement), construction of facilities or premises adjacent to and/or near Concession Premises. Claims for abatement of rent must be in writing, along with documentation or evidence in support thereof. All claims must be filed with the Department within ninety (90) days of the commencement of the construction.
- 9.2.2. Licensee agrees to cooperate with County in the event the construction affects the Concession Premises by vacating and removing from the Premises all items of inventory, trade fixtures, portable buildings, equipment and furnishings for such periods as are required by the construction of the new facilities. Licensee/Concessionaire further agrees to cooperate in the determination of the abatement of rent or other relief to be provided by furnishing all information requested relative to the Concession and permitting examination and audit of all accounting records kept in connection with the Authorized Activity.
- 9.2.3. Licensee agrees to accept as the sole remedy provided under this Paragraph 9.2 and waives any or all other rights and remedies for relief or compensation that may be available at the time of claim or made available hereafter under the laws of this state in the event of a County construction upon the Concession Premises that substantially interferes with Licensee's use of the Concession Premises or operation of business.

9.3 Destruction of Concession Premises

- 9.3.1. In the event the Concession Premises shall be totally or partially destroyed by fire, earthquake, flood, storms, war, insurrection, riot, public disorder, casualty, County shall have the discretion to either restore the Premises or terminate this License.
- 9.3.2. Should the County elect to restore the Premises, this License shall continue in full force and effect except that the payments to be made by Licensee shall be abated or other relief afforded to the extent that the County is able to determine the amount of damage caused by such restoration.
- 9.3.3. Licensee agrees to cooperate with County in the restoration of the Concession Premises by vacating all items of inventory, trade fixture, portable buildings, equipment and furnishings for such periods as are required for the restoration thereof. Licensee further agrees to cooperate in the determination of the abatement of rent and/or other relief to be provided by furnishing all information requested by County, and permitting examination and audit of all accounting records kept in connection with the Authorized Activity.
- 9.3.4. Licensee agrees to accept as the sole remedy provided under this Subparagraph 9.3 and waives any or all other rights and remedies for relief or compensation that may be available at the time of claim or made available hereafter under the laws of this state in the event of a destruction, whether partially or totally, of the Concession Premises.

9.4 Licenses, Permits, Registration and Certificates

Licensee shall obtain and maintain in effect during the term of the Contract, all licenses, permits, registrations and certificates, if any, required by law, which are applicable to the performance of this agreement, and shall further ensure that all of its officers, employees and agents who perform services hereunder obtain and maintain in effect during the term of this License, all licenses, permits, registrations and certificates required by law which are applicable to their performance of services hereunder.

9.5 Right of Entry

- 9.5.1. Any officer or employee of the County may enter upon the Concession Premises at any time without prior notice for the purpose of determining whether or not Licensee is complying with the terms and conditions thereof, or for any other purpose incidental to the rights of the County.
- 9.5.2. In the event of an abandonment, vacation or discontinuance of Concession operations for a period in excess of 15 days during the time when the business is required to open under the License, Licensee hereby irrevocably appoints the County as an agent for continuing operation of the Concession granted herein, and in connection therewith authorizes the officers and employees thereof to: (1) take possession of the Concession Premises, including all improvements, equipment and inventory thereon; (2) remove any and all persons or property on the Premises and place any such property in storage for the account of and at the expense of Licensee; (3) sublease or license the Premises; and (4) after payment of all expenses of such subleasing or licensing, apply all payments realized therefrom to the satisfaction and/or mitigation of all damages arising from Licensee's breach of this License.
- 9.5.3. Entry by the officers and employees of the County upon the Concession Premises for the purpose of exercising the authority conferred herein shall be without prejudice to the County's exercise of any other remedies provided under this License or other applicable laws and regulations.

10.0 CONCESSIONAIRE'S STAFF AND EMPLOYMENT PRACTICES

10.1 Concession Premises Rules

Licensee employees or agents are subject to the following Concession Premises rules:

10.1.1. DISORDERLY PERSONS

Licensee agrees not to allow any loud, boisterous or disorderly persons to loiter about the Concession Premises.

10.1.2. HABITATION

The Concession Premises shall not be used for human habitation.

10.1.3. ILLEGAL ACTIVITIES

Licensee shall not permit any illegal activities to be conducted upon the Concession Premises.

10.1.4. VISITORS

Licensee's employees may not bring visitors into the Concession Premises, nor may they bring in any type of weapons or unlawful goods.

10.1.5. ALCOHOLIC BEVERAGES, ILLEGAL DRUGS

The use or possession of alcoholic beverages or illegal drugs by Concessionaire staff while at County facilities is strictly forbidden. Any violation shall be cause for immediate removal of the offenders from further work at the facility.

10.1.6. SMOKING

Smoking is prohibited in County buildings and is restricted to appropriate outside areas.

It is the responsibility of the Licensee to instruct its staff on the rules applicable to the Concession Premises. The Licensee shall take immediate corrective action upon receipt of written and/or verbal notice from the County that:

10.1.7. An employee of Licensee has violated such rules; or

10.1.8. Such employee's actions may adversely affect the delivery of services. In the event the County determines the corrective action taken by Licensee is not sufficient, the Licensee shall remove or suspend such employee from the provisions of services hereunder or take such other action as requested by the County.

11.0 EASEMENTS

County hereby reserves the right to establish, grant or utilize easements or right of way over, under, along and across the Concession Premises for utilities and/or public access provided that County shall exercise such rights in a manner that will minimize the interference with the operations of the Licensee . Should the establishment of such easements permanently deprive Licensee of the use of a portion of the Concession Premises, an abatement of payments shall be provided in accordance with the terms of Sections 9.2 and 9.3 of this License.

12.0 MAINTENANCE / DEMAND FOR REIMBURSEMENT

12.1.1. Licensee at its own cost and expense is responsible for maintaining without limitation, all trade fixtures whether they are furnished by the Licensee or County, in good working condition or repair, and for immediately notifying the County of any unsafe conditions and taking immediate remedial action if appropriate. Licensee

shall perform any and all repairs regarding the Concession Premises, including, but not limited to: broken window glass; interior lights; plumbing and lighting fixtures; flooring and ceiling; service shutters and doors, etc., during the term of the License. Additionally, Licensee shall be responsible for the maintenance and servicing of grease-catching equipment on the premises. All maintenance and repair obligations set forth herein shall be commenced within thirty (30) days of the need thereof and diligently pursued to completion, except where the state of disrepair is such that an emergency or hazard is created thereby, in which event there shall be an immediate correction thereof.

12.1.2. County may cure the default of the Licensee with respect to the maintenance and repair obligations stated herein, and upon performance thereof shall be reimbursed from Licensee for the actual costs incurred, including, but not limited to, the cost of labor, materials and equipment furnished in the correction thereof, provided there is prior written notice from County to Licensee regarding the nature and scope of the work to be performed and the estimate costs thereof.

12.1.3. The demand of County for reimbursement pursuant to Subparagraph 12.2 shall be considered as rent defined under Section 6 of this License and satisfied first by Licensee's Security Deposit and then as additional rent due and payable.

13.0 **NON-INTERFERENCE**

Licensee shall not interfere with the public use of the public facilities where the Concession is located.

14.0 **PROGRAMMED EVENTS**

Licensee shall not promote or sponsor private or public events requiring the use of Concession Premises without a prior written approval from the Director. However, this provision shall not prohibit Concessionaire from generally advertising or encouraging public use of the Concession Premises.

15.0 **SAFETY**

Licensee shall immediately correct any unsafe condition at the Concession Premises, as well as any unsafe practices occurring thereon. Licensee shall obtain emergency medical care for any member of the public who is in need thereof, because of illness or injury occurring on the Concession Premises. Concessionaire shall cooperate fully with County in the investigation of any accidental injury or death occurring on the Concession Premises, including a prompt report thereof to the Director.

16.0 **SANITATION**

16.1 Licensee shall keep Premises and the area within a distance of fifty (50) feet from the Premises clean and free from offensive matter, refuse or material detrimental to the public health by sweeping, whenever necessary but shall in no event be less than once per day during mandatory hours of operation. Because of environmental concerns, hosing or power cleaning resulting in water runoff to exterior surfaces, including beach areas, may only be carried out after receipt of written approval from the Department. The Licensee shall prevent any accumulation of matter, refuse or substance from occurring. All small equipment including, but not limited to, beverage dispensers, coffeemakers and serving equipment, tray carts, utility carts, and all large equipment, including, but not limited to, walk-in and reach-in refrigerators, steam kettles, steamers, large ovens, hoods, freezers, all icemakers, vents and warmers, etc., shall be washed and sanitized on a regularly scheduled basis by the Licensee.

- 16.2 No offensive matter or refuse or substance, containing an unnecessary, unreasonable or unlawful fire hazard or material detrimental to the public health, shall be permitted or remain on the Concession Premises, and Licensee shall prevent any accumulation thereof from occurring. Licensee shall, at all times, keep the kitchen, dish room, equipment and materials located thereon in good and sanitary condition and free from rubbish, refuse, food scraps, garbage, dust, dirt, flies and other insects, rodents and vermin.
- 16.3 Licensee shall arrange, at Licensee's own expense, for pick-up of trash and garbage from trash areas on the Premises. Licensee shall furnish trash receptacles and have them emptied as frequently as necessary. Licensee shall place all trash inside of the cans and place lids in a closed position. Licensee shall be responsible for cleaning trash cans and providing trash can-liners. Licensee shall provide, at Licensee's own expense, both a trash bin for refuse removal and a separate means of removal of cooking oil from the Premises, subject to Director's approval.
- 16.4 All apparatus, appliances, utensils, devices, equipment and piping used by Concessionaire shall be constructed so as to facilitate the cleaning and inspection thereof and shall be thoroughly and properly cleaned after each period of use with hot water and suitable soap, detergents and sterilizing agents and shall be rinsed by flushing with hot water. All trays, dishes, china, crockery, glassware, cutlery and other equipment of such type shall be cleaned by Licensee immediately after using the same and shall be kept clean until reused. All above mentioned cleaning shall be in conformance with and subject to the California Health and Safety Code and applicable regulations as enforced by the Department of Public Health.
- 16.5 Concession floors shall be cleaned by Concessionaire of all food and beverage spilled thereon. Concessionaire shall continuously monitor and correct spills in the Concession Premises during the hours of operation.
- 16.6 Concessionaire shall provide and pay for regular fumigation service at the Concession Premises.
- 16.7 Concessionaire shall at all times maintain a letter grade rating of "B" or higher as determined by the Los Angeles County Public Health Department. Licensee shall at all times meet County health standards and State and Federal health regulations including, but not limited to, those for cleanliness. The Concessionaire is responsible for keeping the Concession Premises (cafeteria, storage rooms, trash area, including any walls facing or common to Concession services work areas and other areas occupied by the Concessionaire) clean and in a sanitary condition at all times.
- 16.8 Concessionaire shall provide laundry services for hot pad, aprons, and rags for cleaning, mop heads, tablecloths, napkins and dish towels.
- 16.9 Concessionaire shall provide housekeeping services for wall, ceilings, windows, sweeping, vacuuming, scrubbing and stripping the cafeteria floors and dining area of the Concession Premises. Concessionaire shall provide the equipment cleaning and other services as described herein.
- 16.10 Concessionaire shall be responsible for the scrubbing of Concession Premises floors on a quarterly basis, or more, as requested by the Department.

17.0 SECURITY

17.1 Security Devices

Licensee may provide any legal devices, installations, or equipment designated for the purpose of protecting the premises from theft, burglary or vandalism, provided written approval for the installation of such devices is first approved by the Director. All purchases

and installations thereof shall be at Concessionaire's expense and shall be the sole responsibility of Licensee. Concessionaire shall furnish the Department, at the Concessionaire's expense, two (2) sets of keys, keycards or other items and or codes to allow unrestricted access to the Premises by Department Staff within twenty-four (24) hours after any security device of the Premises is altered.

17.2 **Keys**

Licensee shall establish and implement methods of ensuring that keys issued by the County to Concessionaire are not lost or misplaced and are not used by unauthorized persons. No keys shall be duplicated without written authorization from the Department. Concessionaire shall develop procedures assuring adequate key control.

17.2.1. Concessionaire shall provide the County with a list of all personnel who have been issued keys.

17.2.2. Concessionaire shall prohibit the use of keys by any persons other than its designated employees. Concessionaire shall prohibit the opening of locked areas by its employees to permit entrance of persons other than the Concessionaire's employees engaged in the performance of assigned work in those areas.

17.2.3. Concessionaire shall immediately report any lost key to the County.

17.2.4. County may, at its sole discretion, require Concessionaire to replace locks, re-key locks, or reimburse the County for the replacement of a locks or re-keying of lock if Licensee loses an associated key.

18.0 **SIGNS**

Except as otherwise provided herein, Licensee shall not post signs or advertising matter upon the Concession Premises or improvements thereon or adjacent areas, unless prior approval therefore is first obtain from the Director. All purchases and installations of authorized signs or advertising shall be at Licensee's cost.

19.0 TRADE FIXTURES AND EQUIPMENT

- 19.1 The Licensee shall provide and install all trade fixtures at its own cost. For applicable Licenses only, the County will provide, without cost to licensee, certain Trade Fixtures listed in Appendix C-Concession Premises and Authorized Activity, "County Owned Fixtures and Equipment", upon delivery of the Premises. Unless otherwise specified, all trade fixtures and existing equipment in and upon Concession Premises are County property and shall remain the property of the County.
- 19.2 Concessionaire shall provide the Department a list of Licensee-owned trade fixtures and equipment to be located on the Premises, and which shall remain the property of Concessionaire, within ten (10) days after the commencement date of this License. Said list shall be up-dated as required and resubmitted to Department in a timely manner.
- 19.3 Any additional supplies needed shall be provided by Concessionaire including items such as flatware, dishes, trays, glasses, cooking utensils, employee uniforms, condiments dispensers, and decorative items required for the proper operation of the Concession as determined by the Director.
- 19.4 If the Contract is terminated for convenience pursuant to Paragraph 48.0, "Termination for Convenience", any related equipment costs shall be processed as follows:
- 19.4.1. Leased Equipment - the County shall pay Concessionaire all early termination charges specified in Concessionaire's equipment lease.
 - 19.4.2. Purchased Equipment - the County shall pay Concessionaire the cost of such equipment less accumulated depreciation.

20.0 UTILITIES

- 20.1 Licensee shall provide and pay for any necessary utilities, including but not limited to their installation and the cost for hook-up including telephone and electricity.
- 20.2 Concessionaire shall provide telephone instruments and service for its operation. The telephone number shall be placed in the name of Concessionaire and shall not be transferable to any other location.
- 20.3 Concessionaire waives any and all claims against County for compensation for loss or damage caused by a defect, deficiency or impairment of any utility system, water supply system, drainage system, waste system, heating or gas system, electrical apparatus or wires serving the Concession Premises.

21.0 INVENTORY AND MERCHANDISE, MENU, HEALTHY FOOD CHOICES, PRICING AND POSTING, PAYMENT, AMENDMENTS

21.1 Inventory and Merchandise

- 21.1.1. Licensee shall pay for an adequate inventory of merchandise, goods, supplies, and food to meet the needs of the public for the items that may be sold from the Premises. All food and beverages sold or kept for sale by Licensee shall be first-class in quality, wholesome and pure, and shall conform to Federal, State and County food laws, ordinances and regulations in all respects. No adulterated, misbranded or impure articles shall be sold or kept for sale by Licensee. (See Paragraph 22, "Quality of Goods and Services – Removal".)
- 21.1.2. The Licensee shall remove or withdraw from sale any item of merchandise that may be found objectionable to the public, as determined by the Director, immediately following receipt from the Director of written notice for its removal.

- 21.1.3. Merchandise kept on hand by Licensee shall be stored and handled with due regard for sanitation and safety.
- 21.1.4. Licensee is responsible for the daily upkeep of the Concession Premises, including any walls facing or common to Concession Services work areas below six (6) feet in height. Such areas shall be kept clean and in a sanitary condition to preclude any infestation by vermin.
- 21.1.5. All food items shall be delivered or served within temperature ranges established by industry standards and applicable health and safety rules and regulations.

21.2 Menu - Selection (Food Products) and Removal

The Department may request Licensee to change or remove a type of food product (merchandise) sold from the Concession. Upon receipt of notice requesting such change, Licensee shall make the requested change within twenty-four (24) hours of receipt thereof.

21.3 Menus, Healthy Food Choices, Nutritional Information

Subparagraph 21.3 is only applicable to licenses for selling food and beverage from a Concession Stand (concession building).

Contractor shall plan and implement menus for concession operations, if applicable. Menus shall provide for healthy food and beverage choices as defined in Exhibit G-Concession Nutrition Standards.

Menus shall be delivered to the Department within two (2) business days upon request by the Los Angeles County Department of Public Health (DPH).

Contractor in consultation with the Los Angeles County Department of Public Health is required to submit nutrition analysis of all entree items as required by Exhibit G-Concession Nutrition Standards to the Department of Beaches and Harbors to confirm compliance with all nutrition standards.

At least 2 entrées shall meet Concession Nutrition Standards as defined in Exhibit G-Concession Nutrition Standards.

At least one entrée (not meeting the Concession Nutrition Standards as defined in Exhibit G-Concession Nutrition Standards) shall be offered in a reduced-size portion at a reduced price. (Reduced-size portions are at least 1/3 smaller than the full-size item and are offered in addition to the full-size versions.)

Recommend at least one vegetarian entrée be offered.

Fresh fruit and vegetable options shall be included in the menu, as defined in Exhibit G-Concession Nutrition Standards.

Recommend entrées, when applicable, be made or served with whole grains, as defined in Exhibit G-Concession Nutrition Standards. (Grain-based foods are considered whole grain when the first ingredient listed on the ingredient list is a whole grain. Whole grain ingredients include brown rice, buckwheat, bulgur, millet, oatmeal, quinoa, rolled oats, whole-grain barley, whole-grain corn, whole-grain sorghum, whole-grain triticale, whole oats, whole rye, whole wheat, and wild rice)

Combination meals shall offer, as an alternative, bottled water as a beverage option and fresh fruit or a non-fried vegetable item prepared without fat or oil as a side option. (Combination meals consist of an entrée plus a side option and/or beverage.)

When fresh or pre-packaged salads are offered, at least two healthy salad dressing options shall be offered, as defined in Exhibit G-Concession Nutrition Standards.

Recommend utilizing low fat food preparation methods. (Low fat food preparation methods include broiling, grilling, baking, poaching, roasting and steaming.)

At least 50% of beverages on the menu, including fountain drinks and in beverage cases, if applicable, and 50% of snack/dessert items offered on the menu shall meet Concession Nutrition Standards as defined in Exhibit G-Concession Nutrition Standards.

Bottled water must be available as a beverage option.

Contractor shall provide access to fresh tap water, with ice optional.

Contractor shall comply with all nutrition guidelines outlined in this License.

Contractor shall commit to developing and implementing a gradual sodium reduction plan that meets current Dietary Guidelines for Americans (DGA) recommendations within 12 months of License commencement in consultation with Department of Public Health (DPH) staff. The Contractor should work with DPH staff towards the development of sodium standards for individual food categories (e.g., grains, meats, etc.) within the defined timeline.

Healthy menu items shall be clearly indicated on all menus. Recommend using symbols added to the menu to identify items that feature local produce or vegetarian menu items, when applicable.

Contractor, in consultation with DPH, must prominently display *Choose Health LA* signage, if permitted, that promotes healthy food and beverage options made available by the Contractor. Signage shall be provided by DPH, at no cost to Contractor.

Signage indicating availability of fresh tap water, with ice optional, shall be placed at fountain drink machine or other location, if permitted.

Menus shall identify reduced-size portion entrée options and combination meals with the alternative option to select bottled water and a non-fried vegetable or fruit as a side item.

If applicable, healthy option items as defined in Exhibit G-Concession Nutrition Standards should be positioned prominently in the concession/cafe and be easily accessible for customers.

If applicable, candy bars, cookies, chips and sugar-sweetened beverages¹ shall be removed from checkout register area or at point-of-purchase. (Sugar-sweetened beverages include all sodas, fruit drinks, sport drinks, low-calorie drinks and other beverages that contain added caloric sweeteners, such as sweetened tea, rice drinks, bean beverages, sugar cane beverages and nonalcoholic wines.)

The prices of healthy entrées, snacks/desserts and beverages, as defined in Exhibit G-Concession Nutrition Standards, shall not exceed the price of other comparable menu choices.

DPH may periodically monitor the Agreement to ensure the Contractors' compliance with the Concession Nutrition Standards.

Monthly gross receipts and disbursement records, as defined in Subparagraph 41.1 "Accounting Records (Retention / Inspection)", on a quarterly basis, shall be delivered to DPH within two business days, upon request.

Failure to comply with the Concession Nutrition Standards may, in the department's sole discretion, constitute a breach of this License.

Contractor may contact the Los Angeles County Department of Public Health, Division of Chronic Disease and Injury Prevention at (213) 351-7825 or email: chronic_disease@ph.lacounty.gov for information and guidance on the nutrition standards and product compliance.

21.4 Pricing and Posting

Licensee shall at all times maintain a complete list or schedule of the prices charged for all goods or services, or combinations thereof, supplied to the public on or from the Concession Premises. Prices shall be fair and reasonable based upon the following considerations:

- That the concession is intended to serve the needs of the public and employees for the goods and/or services supplied at a fair and reasonable cost;
- Comparability with prices charged for similar goods and/or services supplied in the surrounding area to the Concession Premises; prices may vary based on location;
- And a reasonableness of profit margin in view of the cost of engaging in the Authorized Activity from the Premises in accordance with the obligations assumed in the License.

In the event the County notifies Licensee that prices being charged are not fair and reasonable, Licensee shall have the right to confer with the Director and justify such prices. Following reasonable conference and consultation thereon, Licensee shall make such price adjustments as may be ordered by the Director. If appealing the Director's decision, Licensee shall comply with the price adjustment ordered by the Director pending the appeal and final ruling by the Board.

Prices for each item sold from the Concession shall be conspicuously displayed to the satisfaction of the County.

21.5 Payment – Point of Sale Machines

Concessionaire shall provide a Point of Sale Machine (POS) to facilitate payment by its customers. Cash back restrictions, if any, shall be at the discretion of the Concessionaire.

22.0 QUALITY OF GOODS AND SERVICES – REMOVAL

In the event the County determines that any merchandise, and/or food products are deficient, the County shall have the right to order the improvement of the quality of any such items kept or offered for sale. Concessionaire shall immediately remove or withdraw from sale any goods or services which may be found objectionable to the public or the County, following receipt of written notification thereof.

QUALITY CONTROL

The Licensee shall establish and utilize a comprehensive Quality Control Plan to assure the County a consistently high level of service throughout the term of the License. The Plan shall be submitted upon request to the Contractor's Project Manager for review. The plan shall include, but may not be limited to the following:

- Method of monitoring to ensure that License requirements are being met;
- A record of all inspections conducted by the Licensee, any corrective action taken, the time a problem was first identified, a clear description of the problem, and the time elapsed between identification and completed corrective action, shall be provided to the County upon request.

Contract Discrepancy Report (Form 21 of Appendix D)

Verbal notification of a License discrepancy will be made to the Contractor's Project Manager as soon as possible whenever a License discrepancy is identified. The problem shall be resolved within a time period mutually agreed upon by the County and the Licensee.

The County Contract Project Manager will determine whether a formal Contract Discrepancy Report shall be issued. Upon receipt of this document, the Contractor is required to respond in writing to the County Contract Project Manager within five (5) workdays, acknowledging the reported discrepancies or presenting contrary evidence. A plan for correction of all deficiencies identified in the Contract Discrepancy Report shall be submitted to the County Contract Project Manager within five (5) workdays.

County Observations

In addition to departmental contracting staff, other County personnel may observe performance, activities, and review documents relevant to this License at any time during normal business hours. However, these personnel may not unreasonably interfere with the Licensee's performance.

23.0 **TERM OF LICENSE**

23.1 The term of this License shall be four (4) years and ten (10) months, commencing after execution by County's Board of Supervisors, unless sooner terminated or extended, in whole or in part, as provided in this License.

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.

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 License, and shall not be a renewal hereof.

- 23.2 The Director has the authority to extend the initial four (4) year and ten (10) month License Term an additional five (5) one-year periods (“One-Year Option”), for a maximum total License Term of nine (9) years and ten (10) months.
- 23.3 Each One-Year Option shall be awarded at the sole discretion of the Director. The County shall monitor licensee performance history and any such monitoring of performance may be used for a variety of purposes, including determining whether the County will award any One-Year Options.
- 23.4 If the Licensee wishes to extend to term of the License, then the Department must receive such a request, not later than six (6) months prior to the then current expiration date of License. Failure to submit an extension request in a timely manner may result in said request being rejected.

24.0 TERMS AND CONDITIONS

24.1 CANCELLATION

Upon the occurrence of any one or more of the Events of Default set forth in Subparagraph 24.9, “Events of Default”, of this License, then 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.

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.

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 Additional Contract Provisions or by law to remedy a breach of this License.

24.2 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.

24.3 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.

24.4 TAXES AND ASSESSMENTS

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.

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

24.5 TRANSFERS

Licensee shall not, without written consent of the Director, assign, hypothecate, or mortgage this License or 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 27.2, "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.

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.

The License 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.

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 this section of the License, or for other just cause as determined by the Director.

24.6 ENTIRE AGREEMENT

This License and attachments (Appendices B, C & D) 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.

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

24.7 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.

24.8 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.

24.9 EVENTS OF DEFAULT

- 24.9.1. Licensee's abandonment, vacation or discontinuance of operations of the Concession Premises.
- 24.9.2. 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.
- 24.9.3. 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.
- 24.9.4. 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.
- 24.9.5. 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.
- 24.9.6. 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.

24.9.7. 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.

25.0 ADMINISTRATION OF LICENSE – LICENSEE

25.1 Contractor’s Project Manager

25.1.1. The Contractor’s Project Manager is designated in Appendix D-Form 20, “Contractor’s Administration”. The Licensee shall notify the County in writing of any change in the name or address of the Contractor’s Project Manager.

25.1.2. The Contractor’s Project Manager shall be responsible for the Licensee’s day-to-day activities as related to this License.

25.1.3. Licensee shall, if not acting personally, designate one member of the staff as the Concession Manager with whom County may deal on a daily basis. Any person selected by Concessionaire as Concession Manager shall be skilled in the management of business similar to the Concession and shall be subject to the approval by the County. The Concession Manager shall be fully acquainted with the Concession, familiar with the terms and conditions prescribed therefore by the License Agreement; and authorized to act in the day-to-day operation thereof. They also shall devote substantial time and attention to conducting the Authorized Activity from the Premises.

26.0 CONCESSIONAIRE’S STAFF AND EMPLOYMENT PRACTICES

26.1 Staffing Resources – Level/Experience

Licensee shall maintain an adequate and proper staff. The County may, at any time, give Licensee written notice of the fact that the conduct or actions of a designated employee of Concessionaire is, in the reasonable belief of the County, detrimental to the interests of the public patronizing the Concession Premises. Licensee will meet with representatives of the County to consider the appropriate course of action with respect to such matter and Licensee shall take reasonable measures under the circumstances to assure the County that the conduct and activities of Concessionaire’s employee will not be detrimental to the interest of the public patronizing the Concession Premises.

Persons employed by Concessionaire under the License shall be competent, trustworthy and well qualified for their work.

Licensee shall submit to the County a roster of employees who are required to enter Concession Premises. The roster and employee records shall be kept current and contain the employee’s name, and, if appropriate, date of latest health exam and any doctor’s statements, as well as additional data on background, behavior or job performance pertinent to the provisions of the License.

Concession employees who interface with County personnel and the public must speak English fluently. All Concession employees shall meet the Contract requirements identified in Subparagraph 27.16, “Employment Eligibility Verification”.

Licensee shall collect and provide information to the County upon request including, but not limited to:

- An annual report evaluating the quality, effectiveness, safety, and appropriateness of all services under any resultant contract; and

- Such additional reports which the County determines are reasonably necessary.

Licensee shall assign a sufficient number of employees to perform the required work. At least one employee on site shall be authorized to act for Licensee in every detail and must speak and understand English.

Licensee shall be required to background check their employees as set forth in Subparagraph 26.5, "Background and Security Investigations", of the License.

26.2 Training

Licensee shall provide training programs for all new employees and continuing in-service training for all employees.

All employees shall be trained in their assigned tasks and in the safe handling of equipment. All equipment shall be checked daily for safety. All employees must wear safety and protective gear according to Occupational Safety and Health Administration (OSHA) standards.

26.3 Licensee's Telephone

Licensee shall maintain a telephone in the company's name. The Licensee or at least one employee must be available to respond to telephone inquiries and complaints which may be received about the Licensee's performance of the License. **The Licensee shall answer calls within four (4) hours of receipt of the call.**

26.4 Approval of Licensee's Staff

County has the absolute right to approve or disapprove all of the Licensee's staff performing work hereunder and any proposed changes in the Licensee's staff, including, but not limited to, the Contractor's Project Manager.

26.5 Background and Security Investigations

26.5.1. Each of Licensee's staff performing services under this License, who is in a designated sensitive position, as determined by County in County's sole discretion, shall undergo and pass a background investigation to the satisfaction of County as a condition of beginning and continuing to perform services under this License. Such background investigation must be obtained through fingerprints submitted to the California Department of Justice to include State, local, and federal-level review, which may include, but shall not be limited to criminal conviction information. The fees associated with the background investigation shall be at the expense of the Licensee, regardless if the member of Licensee's staff passes or fails the background investigation.

26.5.2. If a member of Licensee's staff does not pass the background investigation, County may request that the member of Licensee's staff be immediately removed from performing services under the License at any time during the term of the License. County will not provide to Licensee or to Licensee's staff any information obtained through the County's background investigation.

26.5.3. County, in its sole discretion, may immediately deny or terminate facility access to any member of Licensee's staff that does not pass such investigation to the satisfaction of the County or whose background or conduct is incompatible with County facility access.

26.5.4. Disqualification of any member of Licensee's staff pursuant to this Subparagraph 26.5 shall not relieve Licensee of its obligation to complete all work in accordance with the terms and conditions of this License.

26.6 Confidentiality

- 26.6.1. Licensee shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information.
- 26.6.2. Licensee shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by Licensee, its officers, employees, agents, or subcontractors, to comply with this Subparagraph 26.6, as determined by County in its sole judgment. Any legal defense pursuant to Licensee's indemnification obligations under this Subparagraph 26.6 shall be conducted by Licensee and performed by counsel selected by Licensee and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Licensee fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Licensee for all such costs and expenses incurred by County in doing so. Licensee shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without County's prior written approval.
- 26.6.3. Licensee shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this License.
- 26.6.4. Licensee shall sign and adhere to the provisions of the "Contractor Acknowledgement and Confidentiality Agreement", Appendix D-Form 19.

27.0 STANDARD TERMS AND CONDITIONS

27.1 AMENDMENTS

- 27.1.1. For any change which affects the scope of work, term, License Sum, payments, or any term or condition included under this License, an Amendment shall be prepared and executed by the Licensee and by the Director or his/her designee.
- 27.1.2. The County's Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change of certain terms and conditions in the License during the term of this License. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors or Chief Executive Officer. To implement such changes, an Amendment to the License shall be prepared and executed by the Licensee and by the Director.
- 27.1.3. The Director or his/her designee may, at his/her sole discretion, authorize extensions of time as defined in Paragraph 23.0, "Term of License". The Licensee agrees that such extensions of time shall not change any other term or condition of this License during the period of such extensions. To implement an extension of time, an Amendment to the License shall be prepared and executed by the Licensee and by the Director.

27.2 ASSIGNMENT AND DELEGATION

- 27.2.1. The Licensee shall not assign its rights or delegate its duties under this License, or both, whether in whole or in part, without the prior written consent of the Director, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Subparagraph 27.2, County consent shall require a written amendment to the License, which is formally approved and

executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this License shall be deductible, at County's sole discretion, against the claims, which the Licensee may have against the County.

- 27.2.2. Shareholders, partners, members, or other equity holders 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 effected in such a way as to give majority control of Licensee to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the License, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this License.
- 27.2.3. Any assumption, assignment, delegation, or takeover of any of the Licensee's duties, responsibilities, obligations, or performance of same by any entity other than the Licensee, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the License which may result in the termination of this License. In the event of such termination, County shall be entitled to pursue the same remedies against Licensee as it could pursue in the event of default by Licensee.

27.3 AUTHORIZATION WARRANTY

The Licensee or represents and warrants that the person executing this License for the Licensee is an authorized agent who has actual authority to bind the Licensee to each and every term, condition, and obligation of this License and that all requirements of the Licensee have been fulfilled to provide such actual authority.

27.4 COMPLAINTS

- 27.4.1. The Licensee shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.
- 27.4.2. Within thirty (30) business days after License effective date, the Licensee shall provide the County with the Licensee's policy for receiving, investigating and responding to user complaints.
- 27.4.3. The County will review the Licensee's policy and provide the Licensee with approval of said plan or with requested changes.
- 27.4.4. If the County requests changes in the Licensee's policy, the Licensee shall make such changes and resubmit the plan within thirty (30) business days for County approval.
- 27.4.5. If, at any time, the Licensee wishes to change the Licensee's policy, the Licensee shall submit proposed changes to the County for approval before implementation.
- 27.4.6. The Licensee shall preliminarily investigate all complaints and notify the County Contract Project Manager of the status of the investigation within three (3) business days of receiving the complaint.
- 27.4.7. When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.
- 27.4.8. Copies of all written responses shall be sent to the County Contract Project Manager within one (1) business day of mailing to the complainant.

27.5 COMPLIANCE WITH APPLICABLE LAW

- 27.5.1. In the performance of this License, Licensee shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included in this License are hereby incorporated herein by reference.
- 27.5.2. Licensee shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Licensee, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Licensee's indemnification obligations under this Subparagraph 27.5, shall be conducted by Licensee and performed by counsel selected by Licensee and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Licensee fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Licensee for all such costs and expenses incurred by County in doing so. Licensee shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

27.6 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Licensee hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, 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. The Licensee shall comply with Exhibit D-Form 11, "Bidder's EEO Certification".

27.7 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM

27.7.1. Jury Service Program

This License is subject to the provisions of the County's ordinance entitled "Contractor Employee Jury Service" ("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 B-Exhibit B and incorporated by reference into and made a part of this License.

27.7.2. Written Employee Jury Service Policy

1. Unless the Licensee has demonstrated to the County's satisfaction either that the Licensee is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Licensee qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the 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 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.

2. For purposes of this Subparagraph 27.7, "Contractor" 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 the Contractor. "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) Contractor 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 Program. If the Contractor uses any Subcontractor to perform services for the County under the Contract, the Subcontractor shall also be subject to the provisions of this Subparagraph 27.7. The provisions of this Subparagraph 27.7, shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.
3. If the Licensee is not required to comply with the Jury Service Program when the License commences, the Licensee shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and the Licensee shall immediately notify the County if the Licensee at any time either comes within the Jury Service Program's definition of "Contractor" or if the Licensee no longer qualifies for an exception to the Jury Service Program. In either event, the Licensee shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the License and at its sole discretion, that the Licensee demonstrate to the County's satisfaction that the Licensee either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Licensee continues to qualify for an exception to the Program.
4. Licensee's violation of this Subparagraph 27.7, of the License may constitute a material breach of the License. In the event of such material breach, County may, in its sole discretion, terminate the License and/or bar the Licensee from the award of future County licenses for a period of time consistent with the seriousness of the breach.

27.8 CONFLICT OF INTEREST

- 27.8.1. No County employee whose position with the County enables such employee to influence the award of this License or any competing License, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Licensee or have any other direct or indirect financial interest in this License. No officer or employee of the Licensee 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.
- 27.8.2. The Licensee shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this License. The Licensee warrants that it is not now aware of any facts that create a conflict of interest. If the Licensee hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Subparagraph 30.9, shall be a material breach of this License.

27.9 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST

Should the Licensee require additional or replacement personnel after the effective date of this License to perform the services set forth herein, the Licensee 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 License.

27.10 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

27.10.1. Should the Licensee require additional or replacement personnel after the effective date of this License, the Licensee 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 Opportunity for Work (GROW) Program who meet the Licensee's minimum qualifications for the open position. For this purpose, consideration shall mean that the Licensee will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Licensee.

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

27.11 CONTRACTOR RESPONSIBILITY AND DEBARMENT

27.11.1. 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.

27.11.2. Chapter 2.202 of the County Code

The Licensee is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Licensee on this or other contracts which indicates that the Licensee is not responsible, the County may, in addition to other remedies provided in the License, debar the Licensee 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 years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Licensee may have with the County.

27.11.3. 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 an 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.

27.11.4. Contractor Hearing Board

1. If there is evidence that the Licensee may be subject to debarment, the Department will notify the Licensee in writing of the evidence which is the basis for the proposed debarment and will advise the Licensee 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 Licensee and/or the Licensee'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 Licensee should be debarred, and, if so, the appropriate length of time of the debarment. The Licensee 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 the 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 or more 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 of 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.

27.11.5. Subcontractors of Contractor

These terms shall also apply to Subcontractors of County Contractors.

27.12 **LICENSEE'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW**

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 Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Licensee with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

27.13 LICENSEE'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

27.13.1. The Licensee acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through License 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.

27.13.2. 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 in 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, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

27.14 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will evaluate the Licensee's performance under this License on not less than an annual basis. Such evaluation will include assessing the Licensee's compliance with all License terms and conditions and performance standards. Licensee deficiencies which the County determines are severe or continuing and that may place performance of the License in jeopardy if not corrected will be reported to the Director and/or the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and the Licensee. If improvement does not occur consistent with the corrective action measures, the County may terminate this License or impose other penalties as specified in this License.

27.15 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

27.15.1. The Licensee shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by the Licensee or employees or agents of the Licensee. Such repairs shall be made immediately after the Licensee has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

27.15.2. If the Licensee fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by the Licensee by cash payment upon demand.

27.16 EMPLOYMENT ELIGIBILITY VERIFICATION

27.16.1. The Licensee 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 License meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Licensee 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.L. 99-603), or as they currently exist and as they may be

hereafter amended. The Licensee shall retain all such documentation for all covered employees for the period prescribed by law.

27.16.2. The Licensee 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 the Licensee or the 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 License.

27.17 FACSIMILE REPRESENTATIONS

The County and the Licensee hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to Subparagraph 27.1, "Amendments", and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this License, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

27.18 FAIR LABOR STANDARDS

The Licensee 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 Licensee's employees for which the County may be found jointly or solely liable.

27.19 FORCE MAJEURE

27.19.1. Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this License, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this Subparagraph 27.19, as "force majeure events").

27.19.2. Notwithstanding the foregoing, a default by a subcontractor of Licensee shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both Licensee and such subcontractor, and without any fault or negligence of either of them. In such case, Licensee or shall not be liable for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Licensee to meet the required performance schedule. As used in this Subparagraph 27.19, the term "subcontractor" and "subcontractors" mean subcontractors at any tier.

27.19.3. In the event Licensee's failure to perform arises out of a force majeure event, Licensee agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

27.20 GOVERNING LAW, JURISDICTION, AND VENUE

This License shall be governed by, and construed in accordance with, the laws of the State of California. The Licensee agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this License and further and consents

that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

27.21 INDEPENDENT CONTRACTOR STATUS

- 27.21.1. This License is by and between the County and the Licensee 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 Licensee. 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.
- 27.21.2. The Licensee shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this License 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 Licensee.
- 27.21.3. The Licensee understands and agrees that all persons performing work pursuant to this License are, for purposes of Workers' Compensation liability, solely employees of the Licensee and not employees of the County. The Licensee 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 Licensee pursuant to this License.
- 27.21.4. The Licensee shall adhere to the provisions stated in Subparagraph 26.6, "Confidentiality".

27.22 INDEMNIFICATION

The Licensee shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Licensee's acts and/or omissions arising from and/or relating to this License 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 this Subparagraph 27.22, by the Licensee for the protection of the County from the third party liability described in this Subparagraph 30.23, 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.

28.0 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE

Without limiting Licensee indemnification of County, and in the performance of this License and until all of its obligations pursuant to this License have been met, Licensee shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in this Paragraph 28.0, and the following Paragraph 29.0, "Insurance Coverage", of this License. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Licensee pursuant to this License. The County in no way warrants that the Required Insurance is sufficient to protect the Licensee for liabilities which may arise from or relate to this License.

28.1 Evidence of Coverage and Notice to County

Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Licensee's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this License.

Renewal Certificates shall be provided to County not less than 10 days prior to Licensee's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Licensee and/or Sub-Contractor insurance policies at any time.

Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this License by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Licensee identified as the contracting party in this License. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.

Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Licensee, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be sent to:

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

Licensee also shall promptly report to County any injury or property damage accident or incident, including any injury to a Licensee employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Licensee. Licensee also shall promptly notify County of any third

party claim or suit filed against Licensee or any of its Sub-Contractors which arises from or relates to this License, and could result in the filing of a claim or lawsuit against Licensee and/or County.

28.2 Additional Insured Status and Scope of Coverage

The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under Licensee's General Liability policy with respect to liability arising out of Licensee's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Licensee's acts or omissions, whether such liability is attributable to the Licensee or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

28.3 Cancellation of or Change in Insurance

Licensee shall provide County with, or Licensee's insurance policies shall contain a provision that County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the License, in the sole discretion of the County, upon which the County may suspend or terminate this License.

28.4 Failure to Maintain Insurance

Licensee's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the License, upon which County immediately may withhold payments due to Licensee, and/or suspend or terminate this License. County, at its sole discretion, may obtain damages from Licensee resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to Licensee, deduct the premium cost from sums due to Licensee or pursue Licensee reimbursement.

Notification of Incidents, Claims or Suits.

Licensee 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.

28.5 Insurer Financial Ratings

Coverage shall be placed with insurers acceptable to the County with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

28.6 Licensee's Insurance Shall Be Primary

Licensee's insurance policies, with respect to any claims related to this License, shall be primary with respect to all other sources of coverage available to Licensee. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Licensee coverage.

28.7 Waivers of Subrogation

To the fullest extent permitted by law, the Licensee hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this License. The Licensee shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

28.8 Sub-Contractor Insurance Coverage Requirements

Licensee shall include all Sub-Contractors as insureds under Licensee's own policies, or shall provide County with each Sub-Contractor's separate evidence of insurance coverage. Licensee shall be responsible for verifying each Sub-Contractor complies with the Required Insurance provisions herein, and shall require that each Sub-Contractor name the County and Licensee as additional insureds on the Sub-Licensee's General Liability policy. Licensee shall obtain County's prior review and approval of any Sub-Contractor request for modification of the Required Insurance.

28.9 Deductibles and Self-Insured Retentions (SIRs)

Licensee's policies shall not obligate the County to pay any portion of any Licensee deductible or SIR. The County retains the right to require Licensee to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing Licensee's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

28.10 Claims Made Coverage

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of this License. Licensee understands and agrees it shall maintain such coverage for a period of not less than three (3) years following License expiration, termination or cancellation.

28.11 Application of Excess Liability Coverage

Licensees may use a combination of primary, and excess insurance policies which provide coverage as broad as the underlying primary policies, to satisfy the Required Insurance provisions.

28.12 Separation of Insureds

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

28.13 Alternative Risk Financing Programs

28.13.1. The County reserves the right to review, and then approve, Licensee use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County and its Agents shall be designated as an Additional Covered Party under any approved program.

28.13.2. County Review and Approval of Insurance Requirements

28.13.3. The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

29.0 INSURANCE COVERAGE

29.1 Commercial General Liability insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

29.2 Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Licensee's use of autos pursuant to this License, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

29.3 Workers Compensation and Employers' Liability insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Licensee will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Licensee's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

29.4 Unique Insurance Coverage

- Property Coverage
- Licensees given exclusive use of County owned or leased property shall carry property coverage at least as broad as that provided by the ISO special causes of loss (ISO policy form CP 10 30) form. The County and its Agents shall be named as an Additional Insured and Loss Payee on Licensee's insurance as its interests may appear. Automobiles and mobile equipment shall be insured for their actual cash value. Real property and all other personal property shall be insured for their full replacement value. 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.

- MISCELLANEOUS COVERAGE

Protection and Indemnity, Fine Art, Fiduciary Garage, Builder's Risk, Installation Floater, Owners and Licensees Protective Liability, Pollution (Environmental) Liability, Asbestos Liability, Railroad Protective Liability, Earthquake, Flood, Terrorism, Motor Truck Cargo Liability, Equipment Breakdown, Aircraft Liability, Marine.

30.0 LIQUIDATED DAMAGES

- 30.1 If the Director, or his/her designee, determines that there are deficiencies in the performance of this License that the Director, or his/her designee, deems are correctable by the Licensee over a certain time span, the Director, or his/her designee, will provide as specified in Subparagraph 24.9, "Events of Default", a written notice to the Licensee to correct the deficiency within specified time frames. Should the Licensee fail to correct deficiencies within said time frame, the Director, or his/her designee, may: (1) use the Security Deposit as provided for herein, (2) exercise its rights as provided for in Subparagraph 9.5, "Right of Entry", (3) terminate the Agreement, and/or (4) assess liquidated damages.
- 30.2 The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Licensee to correct a deficiency within the specified time frame. 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.
- 30.3 The action noted in this Paragraph 30.0, shall not be construed as a penalty, but as adjustment of payment to the Licensee to recover the County cost due to the failure of the Licensee to complete or comply with the provisions of this License.
- 30.4 This Paragraph 30.0, shall not, in any manner, restrict or limit the County's right to damages for any breach of this License provided by law and shall not, in any manner, restrict or limit the County's right to terminate this License as agreed to herein.

31.0 NONDISCRIMINATION AND AFFIRMATIVE ACTION

- 31.1 The Licensee certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 31.2 The Licensee shall certify to, and comply with, the provisions of Appendix D-Exhibit 11, "Bidder's EEO Certification".
- 31.3 The Licensee shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, 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.

- 31.4 The Licensee certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 31.5 The Licensee certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, 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.
- 31.6 The Licensee shall allow County representatives access to the Licensee's employment records during regular business hours to verify compliance with the provisions of this Paragraph 31.0, when so requested by the County.
- 31.7 If the County finds that any provisions of this Paragraph 31.0, 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 License have been violated, in addition, a determination by the California Fair Employment and Housing 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.
- 31.8 The parties agree that in the event the Licensee violates any of the anti-discrimination provisions of this License, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this License.

32.0 NON EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Licensee. This License shall not restrict the Department from acquiring similar, equal or like goods and/or services from other entities or sources.

33.0 NOTICE OF DELAYS

Except as otherwise provided under this License, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this License, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

34.0 NOTICE OF DISPUTES

The Licensee shall bring to the attention of the County Contract Project Manager any dispute between the County and the Licensee regarding the performance of services as stated in this License. If the County Contract Project Manager is not able to resolve the dispute, the Director, or designee shall resolve it.

35.0 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Licensee shall notify its employees, and shall require each Subcontractor 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 No. 1015.

36.0 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Licensee shall notify and provide to its employees, and shall require each Subcontractor 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 B-Exhibit E, "Safely Surrendered Baby Law", of this License and is also available on the Internet at www.babysafela.org for printing purposes.

37.0 NOTICES

All notices or demands required or permitted to be given or made under this License shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the Licensee as identified in Appendix D-Form 20, "Contractor's Administration", and to the County as below. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The Director or his /her designee 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.

All notices or demands to County shall be addressed to:

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

38.0 PROHIBITION AGAINST INDUCEMENT OR PERSUASION

Notwithstanding the above, the Licensee and the County agree that, during the term of this License and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

39.0 PUBLIC RECORDS ACT

- 39.1 Any documents submitted by the Licensee; all information obtained in connection with the County's right to audit and inspect the Licensee's documents, books, and accounting records pursuant to Paragraph 41.0, "Record Retention and Inspection/Audit Settlement", of this License; as well as those documents which were required to be submitted in response to the Invitation for Bids (IFB) used in the solicitation process for this License, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "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.

- 39.2 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”, the Licensee agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney’s fees, in action or liability arising under the Public Records Act.

40.0 **PUBLICITY**

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

- The Licensee shall develop all publicity material in a professional manner; and
- During the term of this License, the Licensee 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 Contract Project Manager. The County shall not unreasonably withhold written consent.

- 40.2 The Licensee may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this License with the County of Los Angeles, provided that the requirements of this Paragraph 40.0, shall apply.

41.0 **RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT**

The Licensee shall maintain accurate and complete financial records of its activities and operations relating to this License in accordance with generally accepted accounting principles. The Licensee shall also maintain accurate and complete employment and other records relating to its performance of this License. The Licensee agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this License. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Licensee and shall be made available to the County during the term of this License and for a period of five (5) years thereafter unless the County’s written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Licensee at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County’s option, the Licensee shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

In the event that an audit of the Licensee is conducted specifically regarding this License by any Federal or State auditor, or by any auditor or accountant employed by the Licensee or otherwise, then the Licensee shall file a copy of such audit report with the County’s Auditor-Controller within thirty (30) days of the Licensee’s receipt thereof, unless otherwise provided by applicable Federal or State law or under this License. Subject to applicable

law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

Failure on the part of the Licensee to comply with any of the provisions of this Paragraph 41.0, shall constitute a material breach of this License upon which the County may terminate or suspend this License.

If, at any time during the term of this License or within five (5) years after the expiration or termination of this License, representatives of the County conduct an audit of the Licensee regarding the work performed under this License, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Licensee, then the difference shall be either: a) repaid by the Licensee to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Licensee from the County, whether under this License or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Licensee, then the difference shall be paid to the Licensee by the County by cash payment, provided that in no event shall the County's maximum obligation for this License exceed the funds appropriated by the County for the purpose of this License.

41.1 **ACCOUNTING RECORDS (Retention / Inspection)**

Licensee shall be required to maintain a method of accounting which shall, to the satisfaction of the Auditor-Controller, correctly and accurately reflect the gross receipts and disbursement of Licensee in connection with the Concession. The method of accounting, including bank accounts established for the Concession, shall be separate from the accounting system used for any other business operated by Concessionaire or for recording Concessionaire's personal financial affairs. All documents, books, and accounting records relating to the conduct of the Authorized Activity from the Premises shall be open for inspection and re-inspection by the County at any reasonable time during the License term and for twelve (12) months thereafter, unless County gives written permission to dispose of any such material prior to such time. All such material shall be maintained by Concessionaire at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at County's option, Licensee shall pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, and copy or transcribe such material at such other location. In addition, the County may from time to time conduct an audit of these records and observe the conduct of the Authorized Activity on the Premises so that the accuracy of the records can be confirmed. All information obtained in connection with the County's inspections or audit shall be treated as confidential information and exempt from public disclosure, to the extent allowed by law. The County shall not be liable or responsible for the disclosure of any such records, including those marked trade secrets, confidential, or proprietary, unless such disclosure is required under the California Public Records Act, as determined by County Counsel or a court of competent jurisdiction. Such records may include:

Regular books of accounting such as general ledgers;

Journals, including any supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc;

State and Federal income tax returns and sales tax returns and checks and other documents providing payment of sum shown which shall be kept in confidence by the County;

Cash register tapes (daily tapes may be separated) but shall be retained so that from day to day the sales can be identified; and

Any other accounting records that the Auditor-Controller deems necessary for proper reporting of receipts.

All sales shall be recorded by means of cash registers which publicly display the amount of each sale and automatically issue a customer's receipt or certify the amount recorded in the sales slip. Said cash registers shall, in all cases, have locked-in sales totals and transaction counters which are constantly accumulating and which cannot, in any event, be reset, and in addition thereto, a tape located within the register on which transaction number and sales details are imprinted. Beginning and ending cash registers readings shall be made a matter of daily record. If requested by the County, the County shall be furnished and retain all the reset keys for the cash registers.

The Licensee shall submit a written statement to the Director reflecting the Licensee's profit and loss from the conduct of the Authorized Activity from the Premises, as of the close of business on November 30 and May 31, for each Contract Year 2014 to 2019, and as of the close of business on November 30 and March 31, for each of the Contract Year under option term.

42.0 RECYCLED BOND PAPER

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

43.0 SUBCONTRACTING

43.1 The requirements of this License may not be subcontracted by the Licensee without the advance approval of the County. Any attempt by the Licensee to subcontract without the prior consent of the County may be deemed a material breach of this License.

43.2 If the Licensee desires to subcontract, the Licensee shall provide the following information promptly at the County's request:

A description of the work to be performed by the Subcontractor;

- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the County.

43.3 The Licensee shall indemnify and hold the County harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Licensee employees.

43.4 The Licensee shall remain fully responsible for all performances required of it under this License, including those that the Licensee has determined to subcontract, notwithstanding the County's approval of the Licensee's proposed subcontract.

43.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this License. The Licensee is responsible to notify its Subcontractors of this County right.

43.6 The County Contract Project Manager is authorized to act for and on behalf of the County with respect to approval of any subcontract and Subcontractor employees.

After approval of the subcontract by the County, Licensee shall forward a fully executed subcontract to the County for their files.

43.7 The Licensee shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to subcontract.

43.8 The Licensee shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the County from each approved Subcontractor. The Licensee shall ensure delivery of all such documents to:

Department of Beaches and Harbors
13837 Fiji Way, Marina del Rey, 90292
Attn: Asset Management-Concessions

44.0 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of the Licensee to maintain compliance with the requirements set forth in Subparagraph 27.13, "Licensee's Warranty of Adherence to County's Child Support Compliance Program", shall constitute default under this License. Without limiting the rights and remedies available to the County under any other provision of this License, failure of the Licensee to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this License pursuant to Paragraph 46.0, "Termination for Default", and pursue debarment of the Licensee, pursuant to County Code Chapter 2.202.

45.0 TERMINATION FOR CONVENIENCE

45.1 This License may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Licensee specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

45.2 After receipt of a notice of termination and except as otherwise directed by the County, the Licensee shall:

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

45.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Licensee under this License shall be maintained by the Licensee in accordance with Paragraph 41.0, "Record Retention and Inspection/Audit Settlement".

46.0 TERMINATION FOR DEFAULT

46.1 The County may, by written notice to the Licensee, terminate the whole or any part of this License, if, in the judgment of County Contract Project Manager:

- Licensee has materially breached this License; or

- Licensee fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this License; or
- Licensee fails to demonstrate a high probability of timely fulfillment of performance requirements under this License, or of any obligations of this License and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

46.2 In the event that the County terminates this License in whole or in part as provided in this Paragraph 46.0, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Licensee shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Licensee shall continue the performance of this License to the extent not terminated under the provisions of this Paragraph 46.0.

46.3 Except with respect to defaults of any Subcontractor, the Licensee shall not be liable for any such excess costs of the type identified in this Paragraph 46.0, if its failure to perform this License arises out of causes beyond the control and without the fault or negligence of the Licensee. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Licensee. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Licensee and Subcontractor, and without the fault or negligence of either of them, the Licensee shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Licensee to meet the required performance schedule. As used in this Paragraph 46.0, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.

46.4 If, after the County has given notice of termination under the provisions of this Paragraph 46.0, it is determined by the County that the Licensee was not in default under the provisions of this Paragraph 46.0, or that the default was excusable under the provisions of this Paragraph 46.0, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 45.0, "Termination for Convenience".

46.5 The rights and remedies of the County provided in this Paragraph 46.0, shall not be exclusive and are in addition to any other rights and remedies provided by law or under this License.

47.0 TERMINATION FOR IMPROPER CONSIDERATION

47.1 The County may, by written notice to the Licensee, immediately terminate the right of the Licensee to proceed under this License if it is found that consideration, in any form, was offered or given by the Licensee, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this License or securing favorable treatment with respect to the award, amendment, or extension of this License or the making of any determinations with respect to the Licensee's

performance pursuant to this License. In the event of such termination, the County shall be entitled to pursue the same remedies against the Licensee as it could pursue in the event of default by the Licensee.

- 47.2 The Licensee shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.
- 47.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

48.0 TERMINATION FOR INSOLVENCY

48.1 The County may terminate this License forthwith in the event of the occurrence of any of the following:

- Insolvency of the Licensee. The Licensee shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Licensee is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding the Licensee under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Licensee; or
- The execution by the Licensee of a general assignment for the benefit of creditors.

48.2 The rights and remedies of the County provided in this Paragraph 51.0, shall not be exclusive and are in addition to any other rights and remedies provided by law or under this License.

49.0 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

The Licensee, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Licensee, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Licensee or any County Lobbyist or County Lobbying firm retained by the Licensee to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this License, upon which the County may in its sole discretion, immediately terminate or suspend this License.

50.0 VALIDITY

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

51.0 WAIVER

No waiver by the County of any breach of any provision of this License 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 License shall not be construed as a waiver thereof. The rights and remedies set forth in this Paragraph 51.0, shall not be exclusive and are in addition to any other rights and remedies provided by law or under this License.

52.0 WARRANTY AGAINST CONTINGENT FEES

52.1 The Licensee warrants that no person or selling agency has been employed or retained to solicit or secure this License upon any License or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Licensee for the purpose of securing business.

52.2 For breach of this warranty, the County shall have the right to terminate this License and, at its sole discretion, deduct from the License price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

53.0 WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Licensee acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through license are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

Unless Licensee qualifies for an exemption or exclusion, Licensee warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this license will maintain compliance, with Los Angeles County Code Chapter 2.206.

54.0 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Failure of Licensee to maintain compliance with the requirements set forth in Paragraph 53.0, "Warranty of Compliance with County's Defaulted Property Tax Reduction Program", shall constitute default under this license. Without limiting the rights and remedies available to County under any other provision of this license, failure of Licensee to cure such default within 10 days of notice shall be grounds upon which County may terminate this license and/or pursue debarment of Licensee, pursuant to County Code Chapter 2.206.

55.0 UNIQUE TERMS AND CONDITIONS

55.1 ENVIRONMENTAL

- Compliance with Environmental Laws. Licensee hereby warrants and represents that it shall comply with all federal, state and local laws and regulations concerning the use, release, storage and disposal of Hazardous Substances on the Premises.
- Notice of Hazardous Release. Licensee shall notify the County when it learns that Hazardous Substances have been released on the Premises.
- Environmental Indemnification. Licensee shall indemnify, defend, and hold harmless County, its elected and appointed officers, agents and employees from and against any and all liabilities, damages, claims, costs and expenses (including without limitation, investigation and remediation costs, attorneys fees, and legal expenses arising in whole or in part from the presence of Hazardous Substances, Hazardous Substance Conditions, or pollutants, as such terms may be defined herein or in the Comprehensive Environmental Response Compensation and Liability Act or Resource Conservation and Recovery. This provision shall survive the termination of this License.
- Hazardous Substance. "Hazardous Substance" shall mean any substance whose nature and/or quantity of existence, use, manufacture, disposal or effect, render it subject to federal, state or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare.
- Hazardous Substance Condition. "Hazardous Substance Condition" shall mean the existence on, under, or relevantly adjacent to, the Premises of a Hazardous Substance that requires remediation and/or removal and/or for it to be otherwise mitigated pursuant to applicable law.

55.2 HEALTH AND SAFETY

Licensee shall meet all federal, state and local health and safety regulations and provide appropriate documentation to County upon request.

55.3 ADA ACCOMMODATIONS

Licensee shall require each employee to provide reasonable assistance, upon request, to individuals with disabilities.

Licensee shall maintain clear paths of travel at least thirty-six (36) inches wide within the Concession Premises and keep them clear to the extent that can be done without moving any fixed equipment (such as refrigerators, freezers, counters, cash registers, or soda machines) or removing any portable equipment or furniture such as portable refrigerators, freezers or display racks.

55.4 ADVERTISING AND PROMOTIONAL PRODUCTS

Licensee shall not promulgate nor cause to be distributed any advertising, or promotional materials unless prior approval thereof is obtained from the Director. Said approval shall not be unreasonably withheld or delayed and shall be deemed to be given if no objection is made within thirty (30) days following the request for approval. The Director's approval shall be deemed reasonably withheld if the content and use of the marketing literature in the manner proposed by the Licensee would constitute a breach of any marketing contract that may have been entered into by the County as part of County marketing and advertising program described in this Subparagraph 55.4. Such materials include, but are not limited to, all media advertising.

55.4.1. COUNTY MARKETING AND ADVERTISING PROGRAM

55.4.2. The licensee acknowledges that the Board of Supervisors has an established advertising program designed to promote additional revenue for the County, and the Licensee agrees to cooperate in this program in the manner described in this Subparagraph 55.4 without compensation from the County for such cooperation.

55.4.2.1. The Licensee agrees to place on the Premises any advertising that the Director approves under this program. Any advertising approved by the Director under this program shall be placed at County's cost.

55.4.2.2. The Licensee agrees to rent or sell, along with all other items of merchandise that are part of the Licensee's normal and customary inventory, any item of merchandise that the Director approves under this program, provided that Licensee is authorized to sell it under the terms of the License.

55.4.2.3. The Licensee agrees that through the County advertising program, merchandise or beverages may be sold or given away on any area more than two hundred (200) feet from the Premises.

55.4.2.4. The Licensee agrees to cooperate with the County in any exclusive marketing sponsorship agreement the County presently has or may enter into in the future with a beverage company; by exclusively selling on or from the Premises only those beverage brands that are approved by the Director. The exclusive beverage company sponsor would be required by the County to provide its beverages to the Licensee at a competitive price. All advertising on or about the Premises, including without limitation that which is contained on customer serving items (such as, but not limited to, cups, napkins, umbrellas, and chairs) must not carry any depictions, logos or wording that represents in any way (as determined by the Director) another beverage company other than the exclusive beverage company sponsor selected by the County. The Licensee must use any customer serving items (such as, but not limited to, cups, napkins, umbrellas, and chairs) as provided by the exclusive beverage company sponsor and approved by the Director as long

as such items are either provided free of charge or at a competitive price. The Licensee shall comply with the terms of this Subparagraph 55.4 upon 30-day written notice being given to the Licensee from the Director.

55.5 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.

55.6 ARTIFICIAL TRANS FAT REDUCTION PROGRAM

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-Form 16, "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>

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.

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.

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:

- 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 this Subparagraph 55.6. 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.
- 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.

- Require Contractor to cure its non-compliance with ATFR Program standards within a period prescribed by the County, in its discretion.

55.7 GREEN INITIATIVES

Licensee shall use reasonable efforts to initiate “green” practices for environmental and energy conservation benefits.

Licensee shall notify County Contract Project Manager of Licensee’s new green initiatives prior to the license commencement.

56.0 LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE PROGRAM

- 56.1 This License is subject to the provisions of the County’s ordinance entitled Local Small Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.
- 56.2 The Licensee shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.
- 56.3 The Licensee shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.
- 56.4 If the Licensee has obtained certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this license to which it would not otherwise have been entitled, shall:
- 56.5 Pay to the County any difference between the license amount and what the County’s rent would have been if the license had been properly awarded;
1. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten (10) percent of the amount of the license; and
 2. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and Internal Services Department of this information prior to responding to a solicitation or accepting a license award.

57.0 TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM

- 57.1 This License is subject to the provisions of the County’s ordinance entitled Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.
- 57.2 Licensee shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Transitional Job Opportunity vendor.
- 57.3 Licensee shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Transitional Job Opportunity vendor.

57.4 If Licensee has obtained County certification as a Transitional Job Opportunity vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this license to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the license amount and what the County's costs would have been if the license had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten (10) percent of the amount of the license; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment). The above penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the certifying department of this information prior to responding to a solicitation or accepting a license award.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this License Agreement to be executed by said Director of Beaches and Harbors or designee and approved by County Counsel, and Contractor has caused this License Agreement to be executed in its behalf by its duly authorized officer, this _____ day of _____ 2014.

LICENSEE: _____

By _____
(Name)

(Title)

COUNTY OF LOS ANGELES

BY: _____
Acting Director

ATTEST:

SACHI HAMAI

Executive Officer-Clerk
of the Board of Supervisors

By _____

APPROVED AS TO FORM:

Christina Salseda
County Counsel

By _____

Principal Deputy County Counsel