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**Gary Jones**  
Director

**Kerry Silverstrom**  
Chief Deputy

**John Kelly**  
Deputy Director

**Brock Ladewig**  
Deputy Director

May 31, 2016

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

Dear Supervisors:

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

36 May 31, 2016

  
LORI GLASGOW  
EXECUTIVE OFFICER

**APPROVAL OF THE THIRD AMENDMENT TO CONCESSION AGREEMENT FOR WILL ROGERS  
STATE BEACH PARK RESTAURANT SEA VIEW RESTAURANTS, INC.  
(THIRD DISTRICT) ( 3 VOTES)**

**SUBJECT**

Request for approval of the Third Amendment to Concession Agreement for Will Rogers State Beach Park Restaurant.

**IT IS RECOMMENDED THAT THE BOARD:**

1. Find that the Amendment is categorically exempt from the California Environmental Quality Act pursuant to Section 15378(b) of the State CEQA Guidelines.
2. Approve the Third Amendment to Concession Agreement, and instruct the Chair of the Board to execute same, upon presentation by the Director of the Department of Beaches and Harbors, in a format substantially similar to the form attached as Attachment A ("Amendment), for the continued operation of Gladstone's Restaurant for the remaining term of the Concession Agreement.
3. Authorize the Director of the Department of Beaches and Harbors to execute and deliver documentation to secure the County's interests in the Concession Agreement, as may be required under the proposed Amendment.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Background

The County and Sea View Restaurants, Inc., a California corporation doing business as "Gladstone's" ("Concessionaire"), entered into that certain Concession Agreement dated November 1, 1997, as amended by First Amendment to Concession Agreement dated February 9, 1999 and Second Amendment to Concession Agreement dated March 29, 2005 ("Agreement"). Concessionaire operates a seafood restaurant located at 17300 Pacific Coast Hwy, Pacific Palisades, CA 90272 (Will Rogers State Beach). The Agreement is for a 20-year term that expires October 31, 2017.

In December 2015, Concessionaire requested a rent reduction based on a persistent drop in business. A significant and continuing decline in Concessionaire's financial position was substantiated through management financial statements and testimonial evidence that the restaurant's gross revenues had been in decline for an extended period, and that Concessionaire was poised to wind down its operations in anticipation of bankruptcy. To avoid closing the restaurant and having the building left vacant, and understanding that issuing a Request for Proposals to award the concession to a new operator and thereafter installing the new operator would take longer than the remaining term of the Agreement, the Department of Beaches and Harbors is proposing that the minimum rent for the Concession be reduced by 50% to allow Concessionaire to stay in business. The resulting reduced minimum rent approximates the percentage rent that would be payable on Concessionaire's recent sale levels if no minimum rent were collected. Percentage rents will not be adjusted, ensuring that County receives additional percentage rent to the extent that Concessionaire's sales improve above current levels. The Department believes that the renegotiated minimum rent is still at or above fair market rent for the restaurant as and where situated.

The following are the most significant changes made by the proposed third amendment to the Agreement:

1. Effective as of March 1, 2016 and continuing for the remaining 20 months of the Agreement, the Monthly Minimum Rent and existing nominal supplement rent of \$1,250 per month will be adjusted to \$72,916.67 per month (\$875,000 annually). Percentage Rent remains unchanged. Concessionaire will be obligated to pay Percentage Rent for gross sales that generate rent above the reduced minimum rent.
2. Concessionaire will provide a guaranty from Richard Riordan, both in his capacity as an individual and in his capacity as Trustee of the Richard J. Riordan Trust DTD August 30, 1996, ensuring the full performance of Concessionaire's payment of rent and other obligations under the Agreement. Such guaranty will be substituted for the current requirement to provide a letter of credit as security for the payment of rent.
3. County will receive full title and all rights to the Gladstone's trade names and trademarks, subject to Concessionaire's right to operate the Gladstone's restaurant under the Agreement and subject to the current license agreements with other third parties for the operation of existing LAX Airport and The Pike at Rainbow Harbor restaurants. County will receive the royalties and license fees under the third party license agreements, which currently are approximately \$460,000 per year contingent on the performance and continued operation of those locations. During the remaining term of the Agreement, the royalties and license fees received by County from the third party license agreements will be credited against Concessionaire's rent under the Agreement.
4. At the expiration or earlier termination of the Agreement, Concessionaire will assign and transfer to a County designee all permits and licenses for the sale of alcoholic beverages in and from the Gladstone's restaurant at Will Rogers State Beach Park.

The advantages of approving the proposed Amendment include minimizing County loss of revenue from immediate closure of the restaurant and avoiding the cost of maintenance, repair, and security for the Gladstone's restaurant building and adjacent parking lot until a new operator is secured.

**Implementation of Strategic Plan Goals**

Implementation of Strategic Plan Goals

The recommended actions are consistent with County policies to facilitate the continued operation of the restaurant and maintenance of County revenue, while ensuring that the County's interests are protected.

**FISCAL IMPACT/FINANCING**

OPERATING BUDGET IMPACT

Approval of the Amendment will result in an annual reduction of \$890,000 in concession rent. The decrease in concession revenue will be offset by an increase in revenue from other charges for services, which revisions have been reflected in the FY 2016-17 Final Changes Budget.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Concession Agreement and the proposed Amendment are authorized by Government Code Section 25907.

The Department will be placing the proposed Gladstone's Third Amendment to Concession Agreement in the form attached on the Beach Commission's May 25 agenda. We will advise your Board of the Commission's recommendation prior to your consideration of this item. County Counsel has approved the documents as to form.

**ENVIRONMENTAL DOCUMENTATION**

The proposed County actions are not a project or projects pursuant to the California Environmental Quality Act (CEQA) because each action is an activity that is excluded from the definition of a project by Section 15378(b) of the State CEQA Guidelines. The proposed actions are administrative activities of government which will not result in direct or indirect physical changes to the environment.

**CONTRACTING PROCESS**

This is an amendment to the original Concession Agreement, as amended. The original Concession Agreement was awarded through a competitive bid process (RFP).

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There is no impact on other current services or projects.

**CONCLUSION**

It is requested that the Executive Officer, Board of Supervisors send an adopted copy of the Board Letter to the Department. Should you have any questions please contact Don Geisinger at (310) 305-9506 or [dgeisinger@bh.lacounty.gov](mailto:dgeisinger@bh.lacounty.gov).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. Jones", with a stylized, cursive flourish at the end.

GARY JONES

Director

GJ:BL:dlg

Enclosures

c: c: County Counsel

THIRD AMENDMENT TO CONCESSION AGREEMENT  
FOR WILL ROGERS STATE BEACH PARK RESTAURANT  
(Gladstone's Restaurant)

THIS THIRD AMENDMENT TO CONCESSION AGREEMENT FOR WILL ROGERS STATE BEACH PARK RESTAURANT (this "**Amendment**") is made and entered into as of \_\_\_\_\_, 2016 by and between the COUNTY OF LOS ANGELES ("**County**") and SEA VIEW RESTAURANTS, INC., a California corporation ("**Concessionaire**").

RECITALS

A. County and Concessionaire are parties to that certain Concession Agreement for Will Rogers State Beach Park Restaurant dated as of November 1, 1997 ("**Original Concession Agreement**"), as amended by that certain First Amendment to Concession Agreement for Will Rogers State Beach Park Restaurant dated as of February 9, 1999 ("**First Amendment**") and Second Amendment to Concession Agreement for Will Rogers State Beach Park Restaurant dated as of March 29, 2005 ("**Second Amendment**"), pursuant to which Concessionaire operates a restaurant known as "Gladstone's" on certain real property located in the County of Los Angeles, State of California and more particularly described therein. The Original Concession Agreement, as amended by the First Amendment and the Second Amendment, is referred to herein as the "**Concession Agreement.**"

B. Following the Second Amendment, Concessionaire delivered and subsequently maintained a letter of credit in favor of County in the principal amount of Four Hundred Thousand Dollars (\$400,000.00) (the "**Letter of Credit**"). As a result of Concessionaire's failure to pay Monthly Minimum Rent under the Concession Agreement for the months of January and February, 2016, and with the cooperation and approval of Concessionaire, County made a draw on the full amount of the Letter of Credit in the amount of \$400,000 (the "**Letter of Credit Funds**"). County has applied portions of the Letter of Credit Funds against the Monthly Minimum Rent payable by Concessionaire for the months of January and February, 2016 in the aggregate amount of \$291,666.66 and the Monthly Minimum Rent payable by Concessionaire for the month of March, 2016 (as modified by this Amendment), in the amount of \$72,916.67, in full satisfaction of the Monthly Minimum Rent payable by Concessionaire for such three months. The remaining unapplied \$35,416.67 of Letter of Credit Funds shall continue to be held by County and applied by County in partial satisfaction of the Monthly Minimum Rent payable by Concessionaire for the month of April, 2016 (as modified by this Amendment).

C. As required by the Second Amendment, California Beach Restaurants, Inc. ("**Parent**") executed a Guaranty dated March 29, 2005 in favor of County (the "**Parent Guaranty**"), pursuant to which Parent guaranteed the full payment and performance of all of Concessionaire's obligations under the Concession Agreement. The Parent Guaranty remains in full force and effect.

D. Also as required by the Second Amendment, Parent entered into a Security Agreement dated March 29, 2005 with County (the "**Security Agreement**") pursuant to which Parent granted to County a security interest in all of Parent's right, title and interest in and to the Name Rights and the Royalties (as such terms are defined in the Security Agreement) to secure

its obligations under the Parent Guaranty.

E. Concessionaire has requested County to agree to a fifty percent (50%) reduction in the Monthly Minimum Rent payable by Concessionaire under the Concession Agreement for the period from March 1, 2016 through October 31, 2017, the scheduled expiration date of the term of the Concession Agreement (“**Remaining Term**”).

F. County is willing to agree to such Monthly Minimum Rent reduction in accordance with and subject to the terms and provisions set forth in this Amendment, and conditioned upon (a) execution by Richard Riordan, both in his capacity as an individual and in his capacity as Trustee of the Richard J. Riordan Trust DTD August 30, 1996 (collectively, “**Principal**”), of a guaranty pursuant to which Principal guaranties the full payment and performance of all obligations and liabilities of Concessionaire under the Concession Agreement during the Remaining Term, which guaranty shall be in lieu of any further requirement by Concessionaire to maintain any letter of credit under the Concessionaire Agreement, (b) the irrevocable and present transfer by Parent to County of full lien-free title to and ownership of the Name Rights and the Royalties, subject only to (i) the right of Concessionaire to use the Name Rights for the operation of the Premises pursuant to Concessionaire’s rights as “Licensee” under the License Agreement referenced in Section 6.11 of the Second Amendment (also described in Item 2 of Exhibit C to the Security Agreement) (the “**Concessionaire License Agreement**”), until the expiration or earlier termination of the Term of the Concession Agreement, including any extension term thereof, (ii) the rights of the third party licensees under the LAX License Agreement and Pike License Agreement (as defined below) and (iii) the Security Agreement, (c) the agreement of Concessionaire to assign and transfer to County at the expiration or earlier termination of the Term of the Concession Agreement, or any extension term thereof, all permits and licenses for the sale of alcoholic beverages in and from the Premises (“**Premises Liquor Licenses**”), and (d) certain other conditions set forth herein.

G. County and Concessionaire desire to modify the Concession Agreement in certain additional respects set forth herein.

NOW, THEREFORE, with reference to the foregoing Recitals and the covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, County and Concessionaire agree as follows:

1. Definitions. All initially-capitalized terms used but not defined in this Amendment have the meanings given to such terms in the Concession Agreement.

2. Existing Concession Agreement. To induce County to enter into this Amendment, Concessionaire hereby represents, warrants, certifies and stipulates that each of the following statements is true and correct:

2.1 Enforceability. The Concession Agreement is valid, binding and enforceable against Concessionaire, subject to the effect of bankruptcy and similar laws affecting the enforcement of creditors’ rights generally and to the discretion of a court of equity to enforce equitable remedies.

2.2 No Defenses. Concessionaire does not have any defenses, counterclaims or offsets to the payment of any amounts payable under the Concession Agreement, and, to Concessionaire's current actual knowledge, no event, circumstance or condition has occurred or currently exists, that constitutes, or with notice and/or the expiration of any applicable grace or cure period would constitute, a breach or default by County under the Concession Agreement.

3. Adjustment to Rent.

3.1 Reduction in Monthly Minimum Rent. Subject to the terms and conditions of this Amendment, effective as of March 1, 2016 and continuing through the expiration of the Remaining Term or such earlier date as the Concession Agreement is terminated, the Monthly Minimum Rent under Section 4.2.1 of the Concession Agreement is reduced to Seventy-Two Thousand Nine Hundred Sixteen and 67/100 Dollars (\$72,916.67) per month. During such period, as provided in Section 4.2 of the Concession Agreement, Concessionaire shall continue to be obligated to pay on a monthly basis the greater of (a) the Monthly Minimum Rent (as reduced pursuant to this paragraph) or (b) Percentage Rent. During the Remaining Term there shall be no further adjustments to the amount of Monthly Minimum Rent pursuant to Section 4.3 of the Concession Agreement.

3.2 Application of Letter of Credit Funds. County has applied portions of the Letter of Credit Funds against the Monthly Minimum Rent payable by Concessionaire for the months of (a) January, 2016 in the amount of \$145,833.33, (b) February, 2016 in the amount of \$145,833.33, and (c) March, 2016 in the amount of \$72,916.67, in full satisfaction of the Monthly Minimum Rent payable by Concessionaire for such three months. The remaining unapplied \$35,416.67 of Letter of Credit Funds shall be held by County and applied in partial satisfaction of the Monthly Minimum Rent payable by Concessionaire for the month of April, 2016. Concessionaire shall pay the remaining unpaid Monthly Minimum Rent for the month of April, 2016 in the amount of \$37,500.00 on or before April 1, 2016. Nothing in this Section 3.2 shall constitute a waiver of the requirement of Concessionaire to pay any Percentage Rent payable under the Concession Agreement in excess of the Monthly Minimum Rent payable hereunder.

3.3 No Further Letter of Credit Requirement. Sections 8.1, 8.2 and 14.1.3 of the Concession Agreement are hereby deleted. All other references to a letter of credit in the Concession Agreement are also hereby deleted. Lessee shall not be required hereafter to maintain any letter of credit security deposit with County.

3.4 Monthly Supplemental Rent. Effective as of March 1, 2016 the Monthly Supplemental Rent set forth in Section 4.7.2 of the Concession Agreement is reduced from \$1,250 per month to \$0.

4. Principal Guaranty. Concurrent with the execution and delivery of this Amendment, Concessionaire shall cause Principal to execute and deliver a guaranty of the full payment and performance of all obligations and liabilities of Concessionaire under the

Concession Agreement arising on and after the date of this Amendment in the form attached to this Amendment as Exhibit A (the “**Principal Guaranty**”).

5. Transfer of Ownership of Naming Rights and Royalties. Concurrent with the execution and delivery of this Amendment, Concessionaire shall cause Parent to assign and transfer to County (a) lien-free ownership of the Naming Rights and Royalties pursuant to an Assignment Agreement in substantially the form attached to this Amendment as Exhibit B (the “**Assignment Agreement**”), subject only to (i) Concessionaire’s rights as “Licensee” under the Concessionaire License Agreement for the non-exclusive use of the Naming Rights until the termination or expiration of the Term of the Concession Agreement, or any renewal term of, for the sole purpose of the operation of the Premises in accordance with the Concession Agreement, (ii) the rights of the third party licensees under the License Agreement dated December 21, 2007 between Gladstone’s Restaurant, a California corporation, as “Licensor”, and Host International, Inc., a Delaware corporation, as “Licensee”, concerning the operation of concessions at the Los Angeles International Airport (the “**LAX License Agreement**”) and the License Agreement dated January, 2003 between Parent, as “Licensor”, and Gladstone’s 4 Fish, LLC, a California limited liability company, as “Licensee”, concerning the operation of a restaurant and the sale of certain goods at The Pike at Rainbow Harbor in Long Beach, California (the “**Pike License Agreement**” and, together with the Concessionaire License Agreement and the LAX License Agreement, collectively, the “**Existing License Agreements**”), and (iii) the Security Agreement; and (b) Parent’s interest as “Licensor” in the Existing License Agreements. Concessionaire, as “Licensee” under the Concessionaire License Agreement agrees that all of its rights as “Licensee” under the Concessionaire License Agreement shall automatically terminate upon the expiration or any earlier termination of the Term of the Concession Agreement, or any extension term thereof, and that Concessionaire shall have no right to use the Naming Rights under the Concessionaire License Agreement from and after the expiration of earlier termination of the Term of the Concession Agreement, or any extension term thereof. Upon the assignment and transfer of the Naming Rights and Royalties and the Existing License Agreements, County shall credit any license fees actually received by County under the Existing License Agreements against the “Monthly Minimum Rent” and “Percentage Rent” payable by Concessionaire under this Amendment; provided, however, that such credit shall be expressly limited to the amounts of license fees actually received, and County shall have no duty or obligation to make collection efforts for such license fees.

6. Conditions to Monthly Minimum Rent Reduction. The reduction in the Monthly Minimum Rent and Monthly Supplemental Rent set forth in Section 3 of this Amendment is conditioned upon the satisfaction or written waiver by County of the conditions precedent set forth in Sections 6.1 through 6.5 below. If any of such conditions are not satisfied or waived in writing by County, then County shall have the right to notify Concessionaire in writing that the reduction in Monthly Minimum Rent set forth in Section 3.1 of this Amendment and the reduction in Monthly Supplemental Rent set forth in Section 3.4 of this Amendment are null and void, in which event the amount of Monthly Minimum Rent payable during the Remaining Term shall be \$145,833.33 per month retroactive to March 1, 2016 and the amount of Monthly Supplemental Rent payable during the Remaining Term shall be \$1,250.00 per month retroactive to March 1, 2016.



6.1 Additional Instruments. Concessionaire shall have caused Parent to execute and deliver to County, and cause to be filed (if and as applicable), such additional instruments (if any) as County reasonably determines are necessary or desirable to effectuate the transfer of lien-free ownership of the Naming Rights and Royalties to County, subject only to the Existing License Agreements.

6.2 UCC Lien Searches. County shall have received lien search reports, certified by the California Secretary of State, that provide that, except for any financing statements naming County as secured party, there are no financing statements naming Concessionaire or Parent as debtor and covering the FF&E, the Naming Rights or the Royalties on file with the California Secretary of State.

6.3 Trademark Search. County shall have received a lien search report, certified by the United States Patent and Trademark Office, that provides that, except for any trademark security agreement naming County as secured party, there are no trademark security agreements or similar instruments covering the Naming Rights on file with the United States Patent and Trademark Office.

6.4 Assignment Agreement. Parent shall have executed and delivered to County the Assignment Agreement and the representations and warranties of Parent set forth therein shall be true and correct.

6.5 Principal Guaranty. Principal shall have executed and delivered to County the Principal Guaranty.

7. Statements of Gross Receipts. Concessionaire shall continue to be obligated to deliver a detailed statement of Gross Receipts for each calendar month within fifteen (15) calendar days following the end of such month and to accompany such statement within any Percentage Rent payable under Section 4.2 of the Concession Agreement. Such statement shall be in such form as reasonably acceptable to County and shall be certified as true and correct by Concessionaire's chief financial officer. Not later than sixty (60) days after the end of calendar year 2016, Concessionaire shall deliver to County an audited statement of Gross Receipts for calendar year 2016 audited by an accountant reasonably approved by County. Not later than sixty (60) days after the expiration of the Remaining Term, Concessionaire shall deliver to County an audited statement of Gross Receipts for the portion of calendar year 2017 included in the Remaining Term, audited by such accountant. Each such audited statement shall be accompanied by Concessionaire's payment of any additional Percentage Rent payable by Concessionaire under the Concession Agreement for such calendar year (or partial calendar year).

8. Transfer of Premises Liquor Licenses. Upon the expiration or earlier termination of the Term of the Concession Agreement, or any extension term thereof, Concessionaire shall transfer or cause to be transferred, the Premises Liquor Licenses to such person or entity as designated by County. Such transfer shall be effective as of the date of the expiration or earlier termination of the Term of the Concession Agreement, or any extension term thereof, or such later date as requested by County. Such transfer shall be effectuated pursuant to documentation reasonably requested by County. County, or its designee, shall be responsible for any transfer

fee payable to applicable governmental authorities and any escrow fees to effectuate the transfer of the Premises Liquor Licenses under this paragraph. Neither County nor its third party designee shall be required to pay Concessionaire any transfer fee or other consideration for the Premises Liquor Licenses. Concessionaire shall keep the Premises Liquor Licenses in full force and effect during the remaining term of the Concession Agreement and continuing until the effective date of the transfer of the Premises Liquor Licenses to County's designee, and shall comply, or cause to be complied, with all terms, conditions and requirements of the Premises Liquor Licenses, and shall not commit or permit to be committed any violation with respect to the terms, conditions or requirements of the Premises Liquor Licenses. The transfer set forth in this Section 8 shall be subject to the agreement of County, upon request of Concessionaire, to cause the Premises Liquor Licenses to be re-conveyed to Concessionaire (or its designated Affiliate) if County and Concessionaire (or its Affiliate) enter into any new or replacement concession agreement for the operation of the Premises; provided, however, that this sentence shall not be construed or interpreted in any manner as a commitment or preference in favor of Concessionaire or its Affiliate with respect to any future operation of the Premises after the expiration or earlier termination of the Concession Agreement.

9. Admission of New Shareholder; New Operator. Concessionaire shall have the right to admit Ron Salisbury as a new shareholder of Concessionaire as long as Principal continues to directly or indirectly own a majority of the ownership interest in Concessionaire and control the management of Concessionaire. County also approves the execution by Concessionaire of a management agreement with Ron Salisbury for the day-to-day operation and management of the Premises, as long as the Premises continues to be operated as Gladstone's restaurant.

10. Costs and Expenses. Concessionaire agrees to pay or reimburse County for all reasonable costs and expenses actually incurred by County in connection with this Amendment and the related transactions and documentation described herein, including, without limitation, the reasonable attorneys' fees and costs of County's counsel in connection with the negotiation and preparation of this Amendment and the documents referred to herein, the costs of the lien or other governmental related searches.

11. Miscellaneous.

11.1 No Modification. Except as referenced herein, the Concession Agreement has not been modified, amended or supplemented, and the Concession Agreement is and remains in full force and effect.

11.2 Counterparts. This Amendment may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

11.3 Time of the Essence. Time is of the essence with respect to this Amendment.

11.4 Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of California without giving effect to the conflict of law principles of said state.

11.5 No Waiver. Except as expressly provided herein, County shall not be deemed by reason of its execution of this Amendment to have waived any terms or provisions of the Concession Agreement, including, without limitation, any default or Event of Default or any rights and remedies that County may have under the Concession Agreement, at law or in equity.

11.6 Controlling Provisions. In the event of any inconsistencies between the provisions of this Amendment and the provisions of the Concession Agreement, the provisions of this Amendment shall govern and prevail.

11.7 Integration and Merger. This Amendment, the Exhibits attached hereto, and all documents referenced in the Amendment to be executed by Parent or Principal in connection herewith, contain the entire agreement of County and Concessionaire regarding the modification of the Concession Agreement and supersede all prior agreements, term sheets and understandings between County and Concessionaire, whether written or oral, with respect to the modification of the Concession Agreement.

11.8 Survival. All representations and warranties contained in this Amendment shall be deemed to be material and shall survive the effectiveness of the modifications to the Concession Agreement contemplated by this Amendment.

11.9 Further Assurances. At County's request, Concessionaire shall promptly execute any other document or instrument and/or seek any consent or agreement from any third party that County determines is necessary to evidence or carryout the intent of the parties, as set forth in this Amendment.

11.10 Captions; Use of Certain Terms. The Section titles and captions in this Amendment are for convenience only and shall not be deemed to be part of this Amendment. All pronouns and any variation or pronouns shall be deemed to refer to the masculine, feminine or neuter, as the identity of the parties may require. Whenever the terms referred to herein are singular, the same shall be deemed to mean the plural, as the context indicates, and vice versa.

11.11 Incorporation of Exhibits. All of the Exhibits referred to in and attached to this Amendment are incorporated herein by this reference.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

THE COUNTY OF LOS ANGELES

By: \_\_\_\_\_  
Chair, Board of Supervisors

SEA VIEW RESTAURANTS, INC., a California corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_


**ATTEST:**

LORI GLASGOW,  
Executive Officer - Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

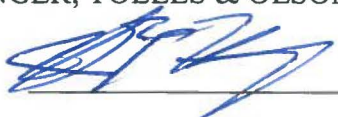
**APPROVED AS TO FORM:**

MARY C. WICKHAM,  
County Counsel

By:   
Deputy

**APPROVED AS TO FORM:**

MUNGER, TOLLES & OLSON LLP

By:   
\_\_\_\_\_

**CONSENT AND AGREEMENT**

The undersigned, California Beach Restaurants, Inc. (“**CBRI**”), as Guarantor under that certain Guaranty dated March 29, 2005, executed by CBRI in favor of County of Los Angeles (“**Guaranty**”), hereby consents to the foregoing Third Amendment to Concession Agreement For Will Rogers State Beach Park Restaurant (“**Third Amendment**”), and agrees that the Guaranty remains in full force and effect with respect to the Concession Agreement (as defined in the Third Amendment), as amended by such Third Amendment.

CALIFORNIA BEACH RESTAURANTS, INC., a  
California corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT A

FORM OF GUARANTY

THIS GUARANTY (this “**Guaranty**”) is made as of \_\_\_\_\_, 2016 by RICHARD J. RIORDAN, an individual, and RICHARD J. RIORDAN, as Trustee of the Richard J. Riordan Trust DTD August 30, 1996 (“**Guarantor**”), in favor of the COUNTY OF LOS ANGELES (“**County**”), with reference to the following facts:

RECITALS

A. Guarantor is an indirect owner of Sea View Restaurants, Inc., a California corporation (“**Concessionaire**”).

B. Concessionaire and County are parties to that certain Concession Agreement for Will Rogers State Beach Park Restaurant dated as of November 1, 1997, as amended by that certain First Amendment to Concession Agreement for Will Rogers State Beach Park Restaurant dated as of February 9, 1999, and that certain Second Amendment to Concession Agreement for Will Rogers State Beach Park Restaurant dated as of March 29, 2005 (as so amended, the “**Existing Concession Agreement**”).

C. Concurrently herewith, Concessionaire and County are entering into a Third Amendment to Concession Agreement for Will Rogers State Beach Park Restaurant dated as of the same date as this Guaranty to further amend the Existing Concession Agreement (the “**Third Amendment**”). The Existing Concession Agreement as amended by the Third Amendment is referred to as the “**Concession Agreement**”.

D. The Third Amendment requires Guarantor to guaranty the obligations of Concessionaire under the Concession Agreement that accrue from and after the date of the Third Amendment.

E. Guarantor desires County to execute the Third Amendment and Guarantor will realize a material and substantial benefit therefrom. Accordingly, to induce County to execute the Third Amendment, Guarantor has agreed to execute this Guaranty.

NOW, THEREFORE, with reference to the foregoing Recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Guarantor hereby agrees as follows:

1. Obligations. To induce County to enter into the Third Amendment, guarantor hereby guaranties, unconditionally and irrevocably, to County and to its successors and assigns the full and prompt payment and performance when due of all of Concessionaire’s obligations under the Concession Agreement accruing or arising on or after the date of this Guaranty (the “**Guaranteed Obligations**”). This Guaranty is a continuing guaranty.

2. Guaranty Absolute. Guarantor agrees that its obligations under this Guaranty are irrevocable, absolute, independent and unconditional and shall not be affected by any

circumstance which constitutes a legal or equitable discharge of a guarantor or surety. In furtherance of the foregoing and without limiting the generality thereof, Guarantor agrees as follows:

a. the liability of Guarantor under this Guaranty is a guaranty of payment and performance, and is not conditional or contingent upon the genuineness, validity, regularity or enforceability of the Concession Agreement, or the pursuit by County of any remedies which it now has or may hereafter have under the Concession Agreement;

b. County may enforce this Guaranty upon the occurrence of an "Event of Default" by Concessionaire under and as defined in the Concession Agreement;

c. the obligations of Guarantor under this Guaranty are independent of the obligations of Concessionaire under the Concession Agreement, and a separate action or actions may be brought and prosecuted against Guarantor whether or not any action is brought against Concessionaire or any other guarantors and whether or not Concessionaire is joined in any such action or actions;

d. the performance of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for those portions of the Guaranteed Obligations which are not performed. Without in any way limiting the generality of the foregoing, if County is awarded a judgment in any suit brought to enforce a portion of the Guaranteed Obligations, such judgment shall not be deemed to release Guarantor from its covenant to perform that portion of the Guaranteed Obligations which is not the subject of such suit; and

e. Guarantor shall continue to be liable under this Guaranty and the provisions hereof shall remain in full force and effect notwithstanding:

i. any modification, amendment, supplement, extension, agreement or stipulation between Concessionaire and County or their respective successors and assigns with respect to the Concession Agreement or the obligations encompassed thereby;

ii. County's waiver of or failure to enforce any of the terms, covenants or conditions contained in the Concession Agreement;

iii. any release of Concessionaire or any other guarantor from any liability with respect to the Guaranteed Obligations or any portion thereof;

iv. any release, compromise or subordination of any real or personal property then held by County as security for the performance by Concessionaire or any other guarantor of the Guaranteed Obligations, or any portions thereof, or any substitution with respect thereto;

v. County's acceptance and/or enforcement of, or failure to enforce, any other guaranties;

vi. County's exercise of any other rights available under the Concession Agreement;

vii. County's consent to the change, reorganization or termination of the structure or existence of Concessionaire and to any corresponding restructuring of the Guaranteed Obligations by County;

viii. any failure to perfect or continue perfection of a security interest in any collateral that secures the Guaranteed Obligations;

ix. any defenses, setoffs or counterclaims that Concessionaire may allege or assert against County with respect to the Guaranteed Obligations, including, without limitation, failure of consideration, breach of warranty, statute of frauds, statute of limitations and accord and satisfaction; and

x. any other act or thing or omission, or delay to do any other act or thing that might in any manner or to any extent vary the risk of Guarantor as an obligor with respect to the Guaranteed Obligations.

3. Waivers. Guarantor hereby waives, for the benefit of County:

a. any right to require County, as a condition of performance by Guarantor, to (i) proceed against Concessionaire, any other guarantor or any other person, (ii) proceed against or exhaust any security held from Concessionaire, any other guarantor or any other person, or (iii) pursue any other remedy whatsoever in the power of County;

b. any defense arising by reason of the incapacity, lack of authority or any disability or other defense of Concessionaire, including, without limitation, any defense based on or arising out of the lack of validity or enforceability of the Guaranteed Obligations or by reason of the cessation of liability of the Concessionaire under the Concession Agreement for any reason;

c. any defense based upon any statute or rule of law that provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal;

d. any defense based upon County's errors or omissions in the administration of the Guaranteed Obligations;

e. any principles of law, statutory or otherwise, that are or might be in conflict with the terms of this Guaranty and any legal or equitable discharge of any Guarantor's obligations hereunder;

f. the benefit of any statute of limitations affecting any Guarantor's liability hereunder or the enforcement hereof;

g. any rights to setoffs, recoupments or counterclaims against County;



h. promptness, diligence and any requirement that County protect, secure, perfect or insure any security interest or lien or any property subject thereto;

i. notices, demands, presentments, protests, notices of protest, notices of dishonor, notices of default under the Concession Agreement, notices of acceptance of this Guaranty and notices of any of the matters referred to in Section 2(e) above and any right to consent thereto;

j. any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms of this Guaranty; and

k. any rights or defenses that Guarantor may have under Sections 2899 and 3433 of the California Civil Code.

4. Subrogation Rights. As long as any of the Guaranteed Obligations remain outstanding, Guarantor hereby waives any rights of subrogation that Guarantor may have against Concessionaire. Guarantor further agrees that to the extent such waiver of its rights of subrogation as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation said Guarantor may have against Concessionaire shall be junior and subordinate to any rights County may have against Concessionaire.

5. Subordination. Any indebtedness of Concessionaire now or hereafter held by Guarantor is hereby subordinated by Guarantor in right of payment to Concessionaire's obligations under the Concession Agreement. Guarantor agrees to make no claim for such indebtedness at any time when Concessionaire is in default of its obligations under the Concession Agreement. Guarantor further agrees not to assign all or any part of such indebtedness unless County is given prior notice and such assignment is expressly made subject to the terms of this Guaranty.

6. Bankruptcy; Reinstatement of Guaranty.

a. Guarantor shall not, without the prior written consent of County, commence or join with any other person in commencing any bankruptcy, reorganization or insolvency proceedings of or against Concessionaire. The obligations of Guarantor under this Guaranty shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Concessionaire or by any defense which Concessionaire may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

b. In any bankruptcy, reorganization, insolvency or other proceeding involving Concessionaire in which the filing of claims is required by law, Guarantor shall file all claims which Guarantor may have against Concessionaire relating to any indebtedness of Concessionaire to Guarantor and shall assign to County all rights of Guarantor thereunder. If Guarantor does not file any such claim, County, as attorney-in-

fact for Guarantor, is hereby authorized to do so in the name of Guarantor or, in County's discretion, to assign the claim to a nominee and to cause proof of claim to be filed in the name of County's nominee. The foregoing power of attorney is coupled with an interest and cannot be revoked. County or its nominee shall have the right, in its reasonable discretion, to accept or reject any plan proposed in such proceeding and to take any other action which a party filing a claim is entitled to do. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to County the amount payable on such claim and, to the full extent necessary for that purpose. Guarantor hereby assigns to County all of Guarantor's rights to any such payments or distributions; provided, however, Guarantor's obligations hereunder shall be satisfied except to the extent that County receives cash by reason of any such payment or distribution. If County receives anything hereunder other than cash, the same shall be held as collateral for amounts due under this Guaranty.

c. If all or any portion of the Guaranteed Obligations are paid or performed by Concessionaire, the obligations of Guarantor hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment or performance is rescinded or recovered directly or indirectly from County as a preference, fraudulent transfer or otherwise, and any such payment or performance which is so rescinded or recovered shall constitute Guaranteed Obligations for all purposes under this Guaranty.

7. Termination. This Guaranty shall terminate upon the indefeasible payment and performance of all Guaranteed Obligations by Guarantor, Concessionaire or any other guarantors.

8. Representations and Warranties. Guarantor hereby represents and warrants to County as follows:

a. Guarantor has an indirect ownership interest in Concessionaire, and County's agreement to enter into the Third Amendment with Concessionaire is of substantial and material benefit to Guarantor; Guarantor now has and will continue to have full and complete access to any and all information concerning Concessionaire's financial status and its ability to perform the Guaranteed Obligations; and Guarantor has reviewed and approved the Concession Agreement and Third Amendment, and is fully informed of the remedies County may pursue, with or without notice to Concessionaire, in the event of a default by Concessionaire thereunder.

b. No consent of any other person, including, without limitation, any creditors of Guarantor, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by Guarantor in connection with this Guaranty or the execution, delivery, performance, validity or enforceability of this Guaranty and all obligations required hereunder or, if any such consents are required, the same have been obtained prior to the execution of this Guaranty. This Guaranty has been duly executed and delivered by Guarantor, and constitutes the legally valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms.

c. The execution, delivery and performance of this Guaranty will not violate any provision of any existing law or regulation binding on Guarantor, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on Guarantor, or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which Guarantor is a party or by which Guarantor or any of any Guarantor's assets may be bound, and will not result in, or require, the creation or imposition of any lien on any of Guarantor's property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking.

d. Each and all of the representations and warranties of Parent set forth in that certain Assignment Agreement dated of even date herewith between Parent and County are true and correct.

9. Notices. All notices, requests and demands to be made hereunder to the parties hereto shall be in writing (at the addresses set forth below) and shall be hand delivered or sent by any of the following means: (a) personal service, (b) registered or certified mail, postage prepaid, return receipt requested, or (c) a nationally recognized courier service (such as Federal Express or DHL). Such addresses may be changed by notice to the other parties given in the same manner as provided above.

If to Guarantor:

Richard J. Riordan  
141 North Bristol Avenue  
Los Angeles, CA 90049

With a copy to:

Morgan Lewis  
300 South Grand Avenue, 22<sup>nd</sup> Floor  
Los Angeles, CA 90071-3132  
Attn: Jacqueline C. Aguilera

If to County:

Department of Beaches and Harbors,  
Los Angeles County  
13837 Fiji Way  
Marina del Rey, CA 90292  
Attn: Director

with a copy to:

Office of County Counsel  
Los Angeles County  
500 West Temple Street  
Los Angeles, CA 90012  
Attn: County Counsel

Notices given in the foregoing manner shall be deemed properly served or given upon receipt or refusal to accept delivery as indicated in the electronic receipt, the return receipt or the receipt of such courier service, as applicable; provided, however, that any notice that is received by courier delivery after 5 p.m. (local time for the addressee) shall be deemed to have been received on the next business day.

10. No Third-Party Beneficiaries. This Guaranty is solely for the benefit of County and is not intended to nor shall it be deemed to be for the benefit of any third party, including Concessionaire.

11. Entire Agreement. This Guaranty and the documents referenced herein set forth all of the agreements, conditions and understandings between the parties with respect to matters addressed herein, and there are no promises, agreements, conditions, understandings, warranties or representations, oral or written, expressed or implied, between the parties other than as set forth or referred to herein with respect to the matters addressed herein.

12. Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Guaranty, and no consent to any departure by Guarantor therefrom, shall in any event be effective without the written concurrence of County. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

13. Successors and Assigns. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of and shall be enforceable by County and its respective successors and assigns.

14. Section Headings. The Section headings are inserted herein only for convenience and are in no way to be construed as part of this Guaranty, or as indicative of the meaning of the provisions of this Guaranty or the intention of the parties, or as a limitation in the scope of the particular Sections to which they refer.

15. Attorneys' Fees. In case suit shall be brought to enforce this Guaranty or because of the breach by any party of any covenant or condition herein contained, the prevailing party shall be entitled to reasonable attorneys' fees in addition to court costs and any and all other costs recoverable in said action. Such attorneys' fees shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. In any case where this Guaranty provides that a party is entitled to recover its attorneys' fees from another party, the party so entitled shall be entitled to recover an amount equal to the fair market value of services provided by attorneys employed by it as well as any reasonable attorneys' fees actually paid by it to third parties. Any reference in this Guaranty to attorneys' fees shall be deemed to include attorneys' disbursements as well.

16. Construction. Each party and its counsel have reviewed and participated in the preparation of this Guaranty and any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Guaranty or any amendments or exhibits hereto. The singular of any word includes the plural, and vice-versa.

17. GOVERNING LAW. THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO THE CONFLICT-OF-LAW PRINCIPLES OF SAID STATE.

18. No Waiver. No failure or delay on the part of County to exercise any power, right or privilege under this Guaranty shall impair any such power, right or privilege, or be construed to be a waiver of any default or an acquiescence therein, nor shall any single or partial exercise of such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

19. Severability. If any term, provision or covenant in this Guaranty is held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, all of the remaining terms, provisions and covenants shall continue in full force and effect and shall in no way be impaired or invalidated thereby.

20. Further Assurances. At any time and from time to time, Guarantor shall execute and deliver such further documents and so such further acts as County may reasonably request in order to effectuate fully the purposes of this Guaranty.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

\_\_\_\_\_  
Richard J. Riordan, an individual

RICHARD J. RIORDAN TRUST DTD AUGUST  
30, 1996

\_\_\_\_\_  
Richard J. Riordan, Trustee

## EXHIBIT B

### FORM OF ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (this "**Assignment**") is dated as of \_\_\_\_\_, 2016 ("**Effective Date**"), by and between CALIFORNIA BEACH RESTAURANTS, INC., a California corporation ("**Assignor**"), and COUNTY OF LOS ANGELES ("**Assignee**").

1. This Assignment is entered into in connection with and as consideration for that Third Amendment to Concession Agreement for Will Rogers State Beach Park Restaurant dated of even date herewith (the "**Concession Agreement Third Amendment**") between Assignee and Assignor's wholly-owned subsidiary, Sea View Restaurants, Inc., a California corporation ("**Concessionaire**"). For such consideration and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Assignor hereby irrevocably assigns, transfers, sets over and conveys to Assignee as of the Effective Date the following (collectively, the "**Assigned Property**"): all of Assignor's right, title and interest in and to (a) all trademarks, trade names and service marks used or associated with the operation of the Gladstone's Restaurant located at 17300 Pacific Coast Highway, Pacific Palisades, California 90272; (b) all trademarks, trade names and service marks used or associated with the operation of the Gladstone's 4 Fish restaurant located at 300 World Way, Los Angeles, California 90045; (c) all trademarks, trade names and service marks used or associated with the operation of the Gladstone's Long Beach restaurant located at 330 South Pine Avenue, Long Beach, California 90802; (d) the trade names Gladstone's or Gladstone's 4 Fish or any derivation thereof (all trademarks, trade names and service marks referred to in (a), (b), (c) and (d) are collectively referred to herein as the "**Name Rights**"); (e) the trademarks, trade names or service marks identified on Exhibit 1 attached hereto and incorporated herein by this reference (all of the trademarks, trade names and service marks identified on Exhibit 1 are referred to herein as the "**Registered Trademarks**"); (f) Assignor's interest as licensor in the Non-Exclusive Royalty Free License Agreement dated October 30, 1997 between Assignor, as "Licensor", and Concessionaire, as "Licensee") (the "**Concessionaire License Agreement**"); (g) Assignor's interest as licensor in the License Agreement dated December 21, 2007 between Gladstone's Restaurant, a California corporation, as "Licensor", and Host International, Inc., a Delaware corporation, as "Licensee", concerning the operation of concessions at the Los Angeles International Airport (the "**LAX License Agreement**"); (h) Assignor's interest as licensor in the License Agreement dated January, 2003 between Assignor, as "Licensor", and Gladstone's 4 Fish, LLC, a California limited liability company, as "Licensee", concerning the operation of a restaurant and the sale of certain goods at The Pike at Rainbow Harbor in Long Beach, California (the "**Pike License Agreement**"); and (i) Assignor's interest as licensor in any other licenses or other similar agreements regarding the use of the Trademarks. The Concessionaire License Agreement, LAX License Agreement and Pike License Agreement are collectively referred to herein as the "**Existing License Agreements**".

2. Assignor hereby represents and warrants to Assignee as of the Effective Date that:

(a) Assignor is the registered owner of the Registered Trademarks;

(b) none of the Assigned Property is encumbered by any lien, security interest or other encumbrance except for the Security Agreement dated March 29, 2005 between Assignor and Assignee (the “**County Security Agreement**”);

(c) the trademarks, trade names and service marks listed on Exhibit 1 constitute all of the trademarks, trade names and service marks in which Assignor or any Affiliate of Assignee hold an interest that contain the name “Gladstones”, “Gladstone’s” or any derivation thereof;

(d) except for the rights of each respective “Licensee” under the Existing License Agreements, (i) neither Assignor nor any predecessor-in-interest to Assignor’s rights in the Assigned Property has granted any other person or entity any ownership, license, rights or other retained interest in the Assigned Property, and (ii) no other person or entity has any ownership, license, rights or other retained interest in the Registered Trademarks;

(e) a complete and accurate copy of each of the respective Existing License Agreements is attached to this Assignment as Exhibits 3, 4 and 5 and such Existing License Agreements have not been amended or modified;

(f) each of the Existing License Agreements is in full force and effect and has not been amended, supplemented or modified;

(g) there is no existing breach, default, dispute or claim by any party to an Existing License Agreement nor, to the current actual knowledge of Assignor, does any condition exist or has any event occurred that, with notice and/or the lapse of any applicable grace or cure period, would constitute a default under an Existing License Agreement;

(h) Assignor is the current “Licensor” under each of the Existing License Agreements; without limitation of the foregoing, Gladstone’s Restaurant, the stated licensor under the LAX License Agreement, is a fictitious business name of Assignor, and thus Assignor is the original licensor under the LAX License Agreement;

(i) Concessionaire is the current “Licensee” under the Concessionaire License Agreement, and Assignor has received no notice, nor does Assignor have any knowledge, of the assignment or transfer by Concessionaire of its interest as “Licensee” under the Concessionaire License Agreement;

(j) to the current actual knowledge of Assignor, Host International, Inc. is the current “Licensee” under the LAX License Agreement, and Assignor has received no notice, nor does Assignor have any knowledge, of the assignment or transfer by Host International, Inc. of its interest as “Licensee” under the LAX License Agreement;

(k) to the current actual knowledge of Assignor, Gladstone’s 4 Fish, LLC is the current “Licensee” under the Pike License Agreement, and Assignor has received no notice, nor does Assignor have any knowledge, of the assignment or transfer by Gladstone’s 4 Fish, LLC of its interest as “Licensee” under the Pike License Agreement;

(l) the Master Agreement dated January, 2003 between Assignor and Pendragon Partners, LLC, a California limited liability company (“**Pendragon**”), has terminated, and neither Pendragon nor any successor to, or any other person or entity affiliated with, Pendragon has any continuing rights under such Master Agreement or any continuing rights to otherwise use the Trademarks or other Assigned Property, except to the extent of the rights of the “Licensee” under the Pike License Agreement;

(m) the License Agreement dated April 21, 1992 between Sea View Restaurants, Inc. and MCA Development Venture Two (“**MCA**”), under which Sea View Restaurants, Inc. granted certain license rights to MCA in the following registered marks: (i) GLADSTONE’S, Reg. Nos. 1,337,282, 1,514,059 and 21, 915 (California state registration); (ii) GLADSTONE’S 4 FISH, Reg. Nos. 1,426,956 and 24,923 (California state registration); and (iii) G (Stylized), Reg. No. 1,477,188, has terminated, and neither MCA nor any successor to, or any other person or entity affiliated with, MCA has any continuing rights under such License Agreement or any continuing rights to otherwise use the Trademarks or other Assigned Property;

(n) no license fees or other compensation required to be paid under an Existing License Agreement has been paid in advance, except for such fees or compensation that pursuant to the express terms of such Existing License Agreement were due and payable prior to the Effective Date;

(o) this Assignment does not violate or conflict with the Existing License Agreements or any other agreement or instrument by which Assignor or any Affiliate of Assignor is bound;

(p) Assignor has the authority to execute and deliver this Assignment, and all consents or approvals of any other person or entity required for the transfer of the Assigned Property pursuant to this Assignment (if any) have been obtained;

(q) Exhibit 2 sets forth accurate information as to (i) Assignor’s legal name as listed in its current organizational documents, (ii) the location of Assignor’s chief executive office, (iii) Assignor’s mailing address, and (iv) all names under which Assignor has conducted its business; and

(r) the Assigned Property constitutes all or substantially all of the assets of Assignor.

The foregoing representations and warranties shall survive the transfer of the Assigned Property to Assignee. For purposes hereof, an “**Affiliate**” means (1) any person or entity that directly or indirectly holds an ownership interest in Assignor, (2) any entity in which Assignor directly or indirectly holds an ownership interest, or (3) any entity in which an ownership interest is directly or indirectly owned by a person or entity in common with the ownership of a direct or indirect ownership interest in Assignor.

3. Assignor shall not make, nor permit any Affiliate of Assignor to make, any further use of the Assigned Property after the Effective Date except use of the license rights in accordance with and limited to the terms of the Existing License Agreements, nor shall Assignor



directly or indirectly through an Affiliate challenge, interfere with, solicit, encourage or assist others to challenge or otherwise interfere with the right, title and interest of Assignee, its successors or assigns, in the Assigned Property. Assignor will not directly or indirectly through its Affiliates take any action (or enable, assist or allow another to take any action), or otherwise support any claim that may detrimentally affect the registration or validity of the Assigned Property.

4. Assignor agrees to execute and deliver any other document, or take any action, which Assignee reasonably deems necessary to perfect, evidence or implement the transfer set forth in this Assignment and to effectuate the intent and purpose of this Assignment, including without limitation, the execution and delivery of any required transfer or transfer authorization forms or other documentation. For purposes of clarification, the assignment of the Assigned Property in Section 1 above includes the assignment to Assignee of all future license fees or other compensation payable under the Existing License Agreements after the Effective Date. Without limitation of Assignor's obligations under this paragraph, Assignor shall take such action and execute such documents and notifications as reasonably requested by Assignee to notify the licensees under the Existing License Agreements of the assignment of Assignor's interest therein to County and directing such licensees to pay all future license fees or other compensation payable thereunder to County. County agrees to credit any license fees actually received by County under the Existing License Agreements against the "Monthly Minimum Rent" and "Percentage Rent" payable by Concessionaire under the Concession Agreement Third Amendment; provided, however, that such credit shall be expressly limited to the amounts of license fees actually received, and County shall have no duty or obligation to make collection efforts for such license fees.

5. Assignee shall be responsible for any transfer fees payable to any registrar to transfer the Assigned Property.

6. Assignee hereby accepts the assignment of the Name Rights and the Registered Trademarks and accepts the assignment and assumes and agrees to perform all the obligations of Assignor as "Licensor" under the Existing License Agreements to the extent any of such obligations first accrue and are applicable to periods on or after the Effective Date of this Assignment; provided, however, Assignee is not assuming any existing liabilities of Assignor with respect to any of the Assigned Property, and Assignee hereby indemnifies, defends and holds Assignor harmless from and against all claims, demands, liabilities, losses, damages, costs and expenses (including attorneys' fees and expenses) incurred by or brought against County in connection with any matters relating to the Assigned Property that accrue or arise prior to the Effective Date.

7. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective heirs, executors, administrators, successors and assigns.

8. This Assignment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9. If Assignor or Assignee brings any action or suit against the other by reason of any breach of any provision of this Assignment on the part of the other, then the prevailing party shall be entitled to recover from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees, charges and costs, in addition to any other relief to which it may be entitled.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Effective Date.

**ASSIGNOR:**

CALIFORNIA BEACH RESTAURANTS, INC., a California corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE:**

THE COUNTY OF LOS ANGELES

By: \_\_\_\_\_

Gary Jones, Director, Department of Beaches and Harbors

**APPROVED AS TO FORM:**

MARY C. WICKHAM,  
County Counsel

By: \_\_\_\_\_  
Deputy

**APPROVED AS TO FORM:**

MUNGER, TOLLES & OLSON LLP

By: \_\_\_\_\_

EXHIBIT 1 TO EXHIBIT B  
TRADEMARK REGISTRATIONS

<u>MARK</u>	<u>CLASS(ES)</u>	<u>COUNTRY/ STATE</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>REGISTERED OWNER</u>
G GLADSTONE'S MALIBU & Design	42	USA	2506092	November 13, 2001	California Beach Restaurants, Inc.
G GLADSTONE'S MALIBU & Design	21, 24, 25	USA	2418549	January 9, 2001	California Beach Restaurants, Inc.
GLADSTONE'S (Stylized)	42	California	21915	January 10, 1985	California Beach Restaurants, Inc.

EXHIBIT 2 TO EXHIBIT B  
INFORMATION REGARDING ASSIGNOR

- (i) Assignor's Legal Name: California Beach Restaurants, Inc., a California corporation
- (ii) Chief Executive Office: 17300 Pacific Coast Highway, Pacific Palisades, California 90272
- (iii) Mailing Address: 17300 Pacific Coast Highway, Pacific Palisades, California 90272
- (iv) Names under which Assignor has conducted business: California Beach Restaurants, Inc.

EXHIBIT 3 TO EXHIBIT B

COPY OF CONCESSIONAIRE LICENSE AGREEMENT

EXHIBIT 4 TO EXHIBIT B  
COPY OF LAX LICENSE AGREEMENT

EXHIBIT 5 TO EXHIBIT B  
COPY OF PIKE LICENSE AGREEMENT