

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 5/1/02
Department Name: Park
Department No.: 052
Agenda Date: 5/21/02
Placement: Administrative
Estimate Time:
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Jennifer Briggs
Director of Parks

STAFF CONTACT: Mike Gibson
Business Manager (568-2477)

SUBJECT: Assignment of Brown Pelican Restaurant Concession Agreement;
Second Supervisorial District

Recommendations:

That the Board of Supervisors:

- A. Execute the Assignment and Assumption of Concession Agreement between Santa Barbara County and Jamshid and Paritchehr Bozorgmehr, as Assignors, and Iraj Bozorgmehr, as Assignee; and
- B. Execute the Third Amendment to Concession Agreement between Santa Barbara County and Iraj Bozorgmehr, the Assignee; which incorporates the transfer of the concession and upholds the stipulations of the original concession agreement, updates the Indemnification and Insurance language, and provides for a procedure by which the Concessionaire may be compensated for capital improvements made by Concessionaire where the life of such improvements extend beyond the term of the Concession Agreement.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

On June 28, 1982, the Board of Supervisors approved a concession agreement between Santa Barbara County and Jamshid and Paritchehr Bozorgmehr, husband and wife, granting the right and privilege to operate, maintain and manage a restaurant for the benefit of the general public at Arroyo Burro Beach County Park. The restaurant has been in continuous operation since that time. The Bozorgmehrs now desire

to assign all rights under said concession agreement to their son, Iraj, who has been actively involved in the daily operations of the business.

This proposed third amendment to the agreement incorporates the assignment, amends the indemnification and insurance provisions, updates the map of the premises, and provides for a cost recovery formula for capital improvements to the premises which are paid for by the concessionaire.

The concessionaire has expressed an interest in providing certain capital improvements to the restaurant at the concessionaire's sole cost and expense. However, upon expiration of the original twenty-five (25) year term of this agreement within 6 years (December 31, 2007), this concession agreement will be subject to an open public bidding process. The concessionaire has expressed concerns regarding investing in long-term improvements to the property without any assurances that he will be awarded the next concession agreement for the restaurant. It has been determined that the County, as the property owner, as well as the public at large, will benefit from such improvements.

The "COST RECOVERY FOR CAPITAL IMPROVEMENTS" provision (Section 28) was added to the agreement as a result of negotiations between the concessionaire and the County Park Department. The provision provides for a process by which the concessionaire, prior to investing in a capital improvement at the facility, may make a written request to the Director of Parks that the improvement be approved as a "Cost Recovery Improvement", and that it be assigned a "value" and an "amortization period". If approved in writing by the Director of Parks, the value will be based on the actual cost of the improvement, excluding the concessionaire's time and effort. The amortization period will be based on the expected life of the improvement. Given these two factors, a straight-line depreciation schedule, or "amortization schedule", will be determined by the County.

If such a formula is agreed to by the parties, upon expiration of the agreement, the concessionaire will have the right to recover from the County, or the concessionaire's successor, that portion of the cost of the improvement which has not been fully amortized, according to the formula that has been agreed to by the County and the concessionaire.

Mandates and Service Levels:

There are no mandates or changes in service levels.

Fiscal and Facilities Impacts:

This concession agreement is estimated to generate approximately \$133,500 in annual revenue for the County Park Department, based on a monthly rent of 6.5% of gross receipts.

There is no impact to facilities.

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Special Instructions:

Upon approval and execution, the Clerk of the Board should distribute as follows:

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| 1. Original signed documents | Official File |
| 2. Duplicate original signed documents | Gen. Svcs./Real Property – Attn: Connie Smith |
| 3. Copy of original signed documents | Parks Administration – Attn: Mike Gibson |
| 4. Copy of original signed documents | Iraj Bozorgmehr |
| | C/O Brown Pelican Restaurant |
| | 2981½ Cliff Drive |
| | Santa Barbara CA 93109 |

Concurrence:
County Counsel
Auditor-Controller
Risk Management
Real Property

