



AGENDA REPORT

Meeting Date: October 18, 2010

Item Number: F-2

To: Honorable Parking Authority

From: Brenda A. Lavender, Real Estate & Property Manager *Brenda*

Subject: THIRD AMENDMENT TO LEASE, AMENDMENT TO MEMORANDUM OF LEASE AND AMENDMENT TO GUARANTY OF LEASE BY AND BETWEEN THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS AND BOUCHON BEVERLY HILLS, L.P.

Attachments:

1. Third Amendment to Lease
2. Amendment to Memorandum of Lease
3. Amendment to Guaranty of Lease

RECOMMENDATION

It is recommended that the Parking Authority approve the Third Amendment to Lease, Amendment to Memorandum of Lease and Amendment of Guaranty to Lease by and between the Parking Authority of the City of Beverly Hills and Bouchon Beverly Hills, L.P. A copy of the amended documents are on file with the City Clerk. Bouchon Beverly Hills, LP is located in the City of Beverly Hills Gardens Building located at 235 N. Canon Drive.

INTRODUCTION

The referenced agreements have been prepared for Parking Authority approval. These amendments restructures the base rent and extends the term of the lease from fifteen (15) years to twenty-five (25). The amendments also changes the percentage rent component that was previously included in the lease under the second amendment.

DISCUSSION

After an amazing opening Bouchon has experienced significantly lower sales than was anticipated and as a result has requested that the lease be restructured to reduce its monthly capital requirements in order to allow continued successful operation of the restaurant. The Parking Authority has agreed to restructure the rental rate as needed and to extend the lease term so that the reduced rent will be recaptured prior to the end of the lease term. The

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amended lease term is twenty-five (25) years, with two (2) 5-year options to extend the term at the then Fair Market Rental Rate.

The amendments reduce the rent effective August 1, 2010 through December 31, 2014. The rent will be reduced by 50% for from August 1, 2010 through December 31, 2011; by 40% from January 1, 2012 through December 31, 2012; by 30% January 1, 2013 through December 31, 2013; and by 20% January 1, 2014 through December 31, 2014. Effective January 1, 2015 the rent will return to 100% of the initial lease start rate.

FISCAL IMPACT

This amendment reduces base rent revenue by (\$3,330,537) through December 31, 2014. The extension of the lease term provides for the recapture of the reduced rent and increases the base rent revenue by \$15,321,401 through the end of the extended lease term. The 3rd amendment also provides the opportunity for the City to share in gross sales through percentage rent the exact amount of which is difficult to quantify at this time.



Scott G. Miller, Director of
Administrative Services, CFO

Approved By

Attachment 1

THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE ("Third Amendment") is dated as of October 18, 2010 (the "Effective Date"), and is entered into by and between THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS, a parking authority established pursuant to the Parking Law of 1949 of the State of California ("Landlord"), and BOUCHON BEVERLY HILLS, L.P., a California limited partnership, doing business as "Bouchon Beverly Hills" ("Tenant").

RECITALS

A. Landlord and Tenant entered into a Lease dated as of August 18, 2008, as amended by a First Amendment to Lease dated as of April 7, 2009, and as amended by a Second Amendment to Lease dated as of April 6, 2010 (as so amended, said Lease is hereinafter referred to as the "Lease"). Landlord and Tenant executed a Memorandum of Lease dated July 8, 2008 that was recorded on May 22, 2009 as Document No. 20090767440 in the Official Records of Los Angeles County, California.

B. The Lease was guaranteed by a Guaranty of Lease dated August 18, 2008 (the "Guaranty").

C. Concurrently herewith, Landlord, Shamus & Peabody, LLC ("Shamus") and Bouchon, L.P. ("Bouchon") are entering into a First Amendment to Guaranty of Lease dated October 19, 2010 (the "First Amendment of Guaranty").

D. Landlord and Tenant desire to further amend the Lease.

NOW, THEREFORE, in consideration of the foregoing recitals, and the covenants and conditions contained herein, and for other consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Capitalized terms used in this Third Amendment but not defined herein shall have the meanings set forth in the Lease.

2. Term. Section 1(d) of the Lease is hereby deleted and is replaced with the following:

"(d) Term: Three Hundred (300) months, commencing upon the "Commencement Date" (as defined in Section 3 below), as it may be extended pursuant to Section 3 below."

3. Monthly Rent. Section 1(e) of the Lease is hereby deleted and is replaced with the following:

"(e) Monthly Rent: Tenant shall pay as Monthly Rent the sums set forth in the column below titled "Monthly Rent," which equals the sum of (i) rent

for the restaurant and wine bar portion of the Premises and (ii) rent for the office portion of the Premises:

Months During Term	Restaurant/Wine Bar Rent	Office Rent	Monthly Rent
8/2010 - 12/2011	\$48,393.00	\$4,676.00	\$53,069.00
1/2012 - 12/2012	\$58,071.60	\$5,611.20	\$63,682.80
1/2013 - 12/2013	\$67,750.20	\$6,546.40	\$74,296.60
1/2014 - 12/2014	\$77,428.80	\$7,481.60	\$84,910.40
1/2015 - 12/2015	\$96,786.00	\$9,352.00	\$106,138.00
1/2016 - 12/2016	\$99,689.58	\$9,632.56	\$109,322.14
1/2017 - 12/2017	\$102,680.27	\$9,921.54	\$112,601.80
1/2018 - 12/2018	\$105,760.68	\$10,219.18	\$115,979.86
1/2019 - 12/2019	\$108,933.50	\$10,525.76	\$119,459.25
1/2020 - 12/2020	\$112,201.50	\$10,841.53	\$123,043.03
1/2021 - 12/2021	\$115,567.55	\$11,166.78	\$126,734.32
1/2022 - 12/2022	\$119,034.57	\$11,501.78	\$130,536.35
1/2023 - 12/2023	\$122,605.61	\$11,846.83	\$134,452.44
1/2024 - 12/2024	\$126,283.78	\$12,202.24	\$138,486.02
1/2025 - 12/2025	\$130,072.29	\$12,568.31	\$142,640.60
1/2026 - 12/2026	\$133,974.46	\$12,945.36	\$146,919.81
1/2027 - 12/2027	\$137,993.69	\$13,333.72	\$151,327.41
1/2028 - 12/2028	\$142,133.50	\$13,733.73	\$155,867.23
1/2029 - 12/2029	\$146,397.51	\$14,145.74	\$160,543.25
1/2030 - 12/2030	\$150,789.43	\$14,570.11	\$165,359.55
1/2031 - 12/2031	\$155,313.12	\$15,007.21	\$170,320.33
1/2032 - 12/2032	\$159,972.51	\$15,457.43	\$175,429.94
1/2033 - 12/2033	\$164,771.69	\$15,921.15	\$180,692.84
1/2034 - 12/2034	\$169,714.84	\$16,398.79	\$186,113.63
1/2035 - 12/2035	\$174,806.28	\$16,890.75	\$191,697.03

4. Security Deposit. Section 1(g) of the Lease is hereby deleted and is replaced with the following:

Security Deposit: Tenant has deposited Two Hundred Thousand Dollars (\$200,000.00) with Landlord as a Security Deposit (the "Original Security Deposit"). As further security for Tenant's obligations under the Lease, Tenant shall deposit with Landlord the nine (9) deposits described on Exhibit "A" attached hereto by the applicable due dates listed on said Exhibit "A" (the "Additional Deposits"). The Additional Deposits and the Original Security Deposit may be referred to hereafter collectively as the "Security Deposit." The Security Deposit shall be included in calculating Tenant's Liquidity (as defined in Paragraph 34 of the Lease).

5. Extension Options. The first sentence of Section 3(b) is hereby deleted and is replaced with the following:

Tenant shall have options ("Extension Options") to extend the Term of this Lease for two (2) consecutive extension terms (the "Extension Terms"). The first Extension Term shall be for a period of five (5) years and the second Extension Term shall be for a period of four (4) years and eleven (11) months.

6. Percentage Rent. Section 5(e) of the Lease is hereby deleted and is replaced with the following:

“(e) (i) Commencing on August 1, 2010 and on the first day of each calendar month thereafter to and including December 1, 2014, Tenant shall pay to Landlord as additional rent a sum (“Percentage Rent”) equal to seven percent (7%) of the amount by which the aggregate “Gross Sales” (as hereinafter defined) for each calendar year exceeds the sum of Eleven Million Five Hundred Thousand Dollars (\$11,500,000) (“Initial Breakpoint”). Since the first year is a partial year, the Initial Breakpoint for the first year shall be prorated by multiplying the Initial Breakpoint by a fraction, the numerator of which is the number of days from August 1, 2010 through December 31, 2010, and the denominator of which is three hundred sixty-five (365). For any partial year thereafter, the Initial Breakpoint shall be prorated by multiplying the Initial Breakpoint by a fraction, the numerator of which is the number of days during such partial calendar year, and the denominator of which is three hundred sixty-five (365).

Commencing on January 1, 2015 and on the first day of each calendar month thereafter during the Term, Tenant shall pay to Landlord as additional rent Percentage Rent equal to seven percent (7%) of the amount by which the aggregate Gross Sales for each calendar year exceeds the sum of Twelve Million Five Hundred Thousand Dollars (\$12,500,000) (“Second Breakpoint”). For any partial year, the Second Breakpoint shall be prorated by multiplying the Second Breakpoint by a fraction, the numerator of which is the number of days during such partial calendar year, and the denominator of which is three hundred sixty-five (365). The Initial Breakpoint and Second Breakpoint are hereinafter collectively referred to as the “Breakpoint.”

Tenant shall furnish or cause to be furnished to Landlord a statement of the monthly Gross Sales of Tenant within thirty (30) days after the end of each calendar month and a statement of the annual Gross Sales of Tenant within thirty (30) days after the end of each calendar year. Such statements shall be in a form acceptable to Landlord. Such statements shall be certified as accurate by the Chief Financial Officer of Tenant. Within thirty (30) days after the end of the first calendar month in each calendar year during the Term that Tenant’s Gross Sales exceed the Breakpoint, and within thirty (30) after the end of each calendar month thereafter, Tenant shall pay to Landlord the Percentage Rent owed for the immediately preceding month.

In the event of the termination or earlier expiration of this Lease, Tenant shall remain obligated to deliver a statement of Gross Sales for the final partial year of the Term and to pay to Landlord any Percentage Rent due by Tenant under this Lease with respect thereto, and the provisions of this Section shall survive the termination or earlier expiration of this Lease for such purpose.

“Gross Sales”, as used in this Lease, shall mean the gross selling price of all food, beverages, merchandise, and services sold in or from the Premises by Tenant, its subtenants, licensees and concessionaires, whether for cash or on credit excluding therefrom the following, provided they are documented in Tenant’s accounting records made available to Landlord and, if applicable, Tenant’s tax returns: (i) sales taxes, excise taxes or gross receipts

taxes imposed by governmental entities upon the sale of merchandise or services, but only if paid by Tenant to the respective governmental entities; (ii) proceeds from the sale of fixtures, equipment or property which are not stock in trade; (iii) the selling price of all merchandise returned by customers and accepted for full credit; (iv) interest or other charges paid by customers for extension of credit; (v) receipts from vending machines used solely by Tenant's employees; (vi) proceeds of insurance received by Tenant, except for business interruption insurance proceeds that is based on loss of income from the items included in "Gross Sales"; (vii) value of meals furnished to Tenant's employees and incident to their employment; (viii) tips, gratuities and service charges paid by patrons of Tenant directly to employees of Tenant or turned over by Tenant to employees of Tenant; (ix) refunds for items returned to vendors or manufacturers; (x) credit card charges that are uncollectible and counterfeit currency or unnegotiable check (which must first be included in Gross Sales but may be deducted from Gross Sales for the period in which the charge becomes uncollectible); (xi) direct expenses of credit card sales by Tenant to the issuers of such credit cards; and (xii) donations or discounts to non-profit organizations; (xiii) the sales of any books; and (xiv) the sales of gift certificates that do not, by their terms, expire and are not included in income under Tenant's accrual accounting method until they are redeemed, but such sales shall be included in "Gross Sales" when such gift certificates are redeemed (the "Exclusions from Gross Sales"). Tenant shall use its reasonable and good faith efforts to maximize Gross Sales from the Premises."

7. Section 5(c) of the Lease is hereby deleted and is replaced with the following:

(c) Tenant has deposited the Original Security Deposit and shall deposit the Additional Deposits with Landlord as defined in Section 1(g), above. Provided Tenant is not in default and provided, further, that the financial statements submitted pursuant to Section 34 of the Lease for the calendar year preceding the final twelve (12) months of the Initial Term show Tenant and Guarantor have a Net Worth (as defined in Section 34) of at least Three Million and 00/100 Dollars (\$3,000,000.00) and Liquidity (as defined in Section 34) of at least One Million and 00/100 Dollars (\$1,000,000.00), one-half of Tenant's total Security Deposit shall be credited against the Monthly Rent coming due after the date that is sixty (60) days after receipt of said financial statements.

8. Section 5(d) of the Lease is hereby deleted and is replaced with the following:

(d) The Original Security Deposit shall be held by Landlord as security for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the Term hereof. If Tenant defaults with respect to any provisions of this Lease, including but not limited to the provisions relating to the payment of Rent, Landlord may (but shall not be required to) use, apply or retain all or any part of the Original Security Deposit for the payment of any Rent or any other sum in default, or for the payment of any other amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of the Original Security Deposit is so used or applied, Tenant shall, within ten (10) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Original Security Deposit to the then required amount. Landlord shall not be required to keep the Original Security Deposit separate from its general funds

and Tenant shall not be entitled to interest on the Original Security Deposit. Tenant waives any rights it may have under Section 1950.7 of the California Civil Code with respect to the Original Security Deposit. Notwithstanding the provisions of Section 5(c), within ninety (90) days following the expiration of the Term or earlier termination of this Lease and Tenant's performance of all of its obligations under this Lease, the Original Security Deposit or any balance thereof shall be returned to Tenant. If Landlord sells its interest in the Building during the Term hereof and deposits with the purchaser thereof the then unappropriated funds deposited by Tenant as aforesaid, Landlord shall be discharged from any further liability with respect to such Original Security Deposit accruing after the date Landlord deposits such Original Security Deposit with such purchaser.

9. The following is added to the Lease as a new Section 5(e):

(e) The Additional Deposits shall be held by Landlord as security for all monetary obligations of Tenant under the Lease (including damages that result from any Event of Default by Tenant under the Lease). If an Event of Default by Tenant occurs under the Lease, Landlord may (but shall not be required to) use, apply or retain all or any part of the Additional Deposits for the payment of any such monetary obligations. Landlord shall be permitted to invest such Additional Deposits in accordance with the City's Investment Policy in such interest-bearing investments as are permitted for the investment of municipal funds. All interest accruing on the Additional Deposits shall be added to the Security Deposit for the purpose of calculating Tenant's Liquidity and shall be payable to Tenant on a quarterly basis after Tenant's Liquidity requirement has been achieved. Tenant waives any rights it may have under Section 1950.7 of the California Civil Code with respect to the Additional Deposits. Notwithstanding the provisions of Section 5(c), within thirty (30) days following the expiration of the Term or earlier termination of this Lease and Tenant's performance of all of its obligations under this Lease, the Additional Deposits, or any balance thereof, shall be returned to Tenant.

10. Section 35 of the Lease is hereby deleted and is replaced with the following:

“35. FINANCIAL COVENANTS.

(a) Shamus Guaranty Period. Tenant shall cause Tenant and Shamus & Peabody, LLC, in the aggregate, to have Liquidity (as defined in Section 34) of at least One Million and 00/100 Dollars (\$1,000,000.00) by December 31, 2011, inclusive of the amount of the Security Deposit held by the Landlord as provided in Section 1(g). At all times during the Shamus Guaranty Period (as defined in the Guaranty), Tenant shall cause Tenant and Shamus & Peabody, LLC, in the aggregate, to have a combined Net Worth (as defined in Section 34) of at least (i) Three Million and 00/100 Dollars (\$3,000,000.00); or (ii) Two Million and 00/100 Dollars (\$2,000,000.00), provided that the deficit by which their combined Net Worth is less than the sum of Three Million and 00/100 Dollars (\$3,000,000.00) is caused solely by Tenant's distribution of earnings or capital to its owners. In no event shall the Net Worth of Tenant and Shamus & Peabody, LLC, in the aggregate, be less than Two Million and 00/100 Dollars (\$2,000,000.00) during the Shamus Guaranty Period.

(b) Bouchon Guaranty Period. At all times during the Bouchon Guaranty Period (as defined in the Guaranty), Tenant shall cause Tenant and Bouchon, L.P., in the aggregate, to have Liquidity (as defined in Section 34) of at least One Million and 00/100 Dollars (\$1,000,000.00), inclusive of the amount of the Security Deposit held by the Landlord as provided in Section 1(g). At all times during the Bouchon Guaranty Period (as defined in the Guaranty), Tenant shall cause Tenant and Bouchon, L.P., in the aggregate, to have a combined Net Worth (as defined in Section 34) of at least (i) Three Million and 00/100 Dollars (\$3,000,000.00); or (ii) Two Million and 00/100 Dollars (\$2,000,000.00), provided that the deficit by which their combined Net Worth is less than the sum of Three Million and 00/100 Dollars (\$3,000,000.00) is caused solely by Tenant's distribution of earnings or capital to its owners. In no event shall the Net Worth of Tenant and Bouchon, L.P., in the aggregate, be less than Two Million and 00/100 Dollars (\$2,000,000.00) during the Bouchon Guaranty Period.”

11. Security Interest in F, F & E and Wine/Liquor Inventory. Tenant hereby represents and warrants to Landlord that no lien encumbers any of Tenant’s furniture, fixtures or equipment in the Premises or the wine and liquor inventory for the restaurant on the Premises (collectively, the “Additional Collateral”). Tenant hereby grants to Landlord a first priority, security interest in the Additional Collateral for the performance of all of Tenant’s obligations under the Lease. Notwithstanding anything to the contrary in Section 11(b) or 11(c) of the Lease, Tenant’s right, title and interest in the Additional Collateral shall be subject to such security interest and Tenant shall not remove any Additional Collateral without Landlord’s written consent (except that Tenant may sell wine and liquor at the Premises in the ordinary course of its restaurant business at the Premises, subject to applicable licenses and permits). Tenant shall keep all of the Additional Collateral in good condition and repair, at Tenant’s cost.

12. Employee Parking. Section 27(e) of the Lease is hereby deleted and is replaced with the following:

“(e) Tenant shall have the right to purchase up to seventy (70) monthly parking passes (*i.e.*, each pass is effective for a duration of one month) for parking in the Parking Structure for its owners, supervisors, managers, employees and agents at the rate of Seventy dollars (\$70.00) per month per pass. Such parking passes initially shall be for parking located in the Parking Structure, and Landlord shall have the right to designate the location of such parking in the Parking Structure and relocate such location(s) within the Parking Structure. Upon thirty (30) days prior written notice to Tenant, Landlord shall have the right, in its sole and absolute discretion, to change the location for all or any portion of such parking to one or more nearby parking facilities. All parking under the monthly parking passes shall be on such other terms and conditions established by Landlord in good faith from time to time.”

13. By entering into this Third Amendment, Landlord hereby waives any event of default of Tenant in the payment of Monthly Rent or Percentage Rent and any default under the terms of the Guaranty which may have occurred and are known to Landlord or that have been noticed to Tenant by Landlord prior to the execution of this Third Amendment.

14. In the event of a conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Third Amendment, the terms and conditions of this Third Amendment shall prevail and control.

15. Except as specifically modified by this Third Amendment, the Lease shall remain unaffected and unchanged. The Lease is hereby ratified and affirmed by Tenant and remains in full force and effect as modified hereby.

16. This Third Amendment may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

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

TENANT:

BOUCHON BEVERLY HILLS, L.P.,
a California limited partnership
(dba: Bouchon Beverly Hills)

By: Bouchon Beverly Hills, LLC,
a California limited liability company,
the sole general partner

By: 
Thomas Keller, Manager

LANDLORD:

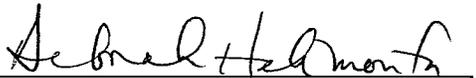
ATTEST:

_____(Seal)
Byron Pope
Secretary to Board of Directors

THE PARKING AUTHORITY
OF THE CITY OF BEVERLY HILLS,
a parking authority established pursuant to the
Parking Law of 1949 of the State of California

By: _____
Jimmy Delshad
Chairman of Board of Directors

APPROVED AS TO FORM:

By: 
Laurence S. Wiener (BG)
Authority Counsel

APPROVED AS TO CONTENT:

By: _____
Jeffrey Kolin, CCM,
Executive Director

~~By: _____~~
Scott Miller,
Chief Financial Officer

REAFFIRMATION BY GUARANTORS

The undersigned guarantors under that certain Guaranty of Lease dated as of August 18, 2008 (“Guaranty”) in regard to the Lease by and between The Parking Authority Of The City Of Beverly Hills and Bouchon Beverly Hills, L.P. dated as of August 18, 2008, as amended (“Lease”), hereby: (i) approve the foregoing Third Amendment to Lease; (ii) agree that the Third Amendment to Lease shall not release or waive either of the undersigned’s obligations under the Guaranty, as amended by that First Amendment to Guaranty of Lease; and (iii) agree that the Guaranty, as amended, and all obligations therein are hereby reaffirmed and shall remain in full force and effect and apply to the Lease as modified by the foregoing Third Amendment to Lease.

Dated: October 1, 2010

SHAMUS & PEABODY, LLC,
a California limited liability company

By: 

Thomas Keller, its Manager
6540 Washington Street
Yountville, CA

Dated: October 1, 2010

BOUCHON, L.P.,
a California limited partnership

By: Bouchon, LLC,
a California limited liability company,
the sole general partner

By: 

Thomas Keller, Manager
6540 Washington Street
Yountville, CA

Exhibit "A"

**Amounts and Deadlines for Additional
Tenant Deposits with Landlord**

Due Date	Deposit
11/30/10	\$140,000
02/28/11	\$50,000
03/31/11	\$90,000
05/31/11	\$35,000
07/31/11	\$40,000
08/31/11	\$60,000
09/30/11	\$150,000
10/31/11	\$100,000
11/30/11	\$135,000
Total	\$800,000

Attachment 2

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Parking Authority of the City of Beverly Hills
455 North Rexford Drive
Beverly Hills, California 90210
Attention: City Clerk

[Space Above For Recorder's Use Only]

The undersigned declare that this Amendment to Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code Section 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11922.

AMENDMENT TO MEMORANDUM OF LEASE

THIS AMENDMENT TO MEMORANDUM OF LEASE ("Memorandum") is dated as of October 18, 2010 and is entered into by and between THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS, a parking authority established pursuant to the Parking Law of 1949 of the State of California ("Landlord"), and BOUCHON BEVERLY HILLS, L.P., a California limited partnership, doing business as "Bouchon Beverly Hills" ("Tenant").

RECITALS

A. Landlord and Tenant entered into a Lease dated as of August 18, 2008, as amended by a First Amendment to Lease dated as of April 7, 2009, as amended by a Second Amendment to Lease dated as of April 6, 2010 and as amended by a Third Amendment to Lease dated October 19, 2010 (as so amended, said Lease is hereinafter referred to as the "Lease"). Landlord and Tenant executed a Memorandum of Lease dated July 8, 2008 that was recorded on May 22, 2009 as Document No. 20090767440 in the Official Records of Los Angeles County, California.

B. The Lease entered into between Landlord and Tenant and as amended provides the term and conditions under which Landlord has agreed to lease and demise to Tenant, and Tenant has agreed to lease and accept from Landlord a portion (the "Premises") of that certain building located in the City of Beverly Hills, County of Los Angeles, State of California, commonly known as 240 N. Beverly Drive. The Building is located on the land more particularly described on Exhibit "A" attached hereto (the "Property"). The Premises are more particularly described in the Lease.

C. Landlord and Tenant desire to enter into this Memorandum to provide record notice of the Lease, as amended.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tenant and Landlord agree as follows:

1. Lease. Landlord hereby leases and demises to Tenant, and Tenant hereby leases and accepts from Landlord, the portion of the Property defined as the "Premises" in the Lease for an initial term of three hundred (300) months and for two option terms, one for a period of five (5) years and the second for a term of four (4) years and eleven (11) months at the rental rate and upon the other terms and conditions set forth in the Lease, which terms and conditions are incorporated herein by this reference.

2. Purpose. This Memorandum is prepared for the purposes of recordation only and in no way modifies the terms and conditions of the Lease. In the event any provision of this Memorandum is inconsistent with any term or condition of the Lease, the term or condition of the Lease shall prevail.

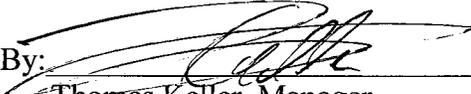
3. Counterparts. This Memorandum may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

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

TENANT:

BOUCHON BEVERLY HILLS, L.P.,
a California limited partnership
(dba: Bouchon Beverly Hills)

By: Bouchon Beverly Hills, LLC,
a California limited liability
company,
the sole general partner

By: 
Thomas Keller, Manager

LANDLORD:

THE PARKING AUTHORITY
OF THE CITY OF BEVERLY HILLS,
a parking authority established pursuant to
the Parking Law of 1949 of the State of
California

By: _____
Jimmy Delshad
Chairman of Board of Directors

ATTEST:

(Seal)
Byron Pope
Secretary to Board of Directors

ACKNOWLEDGMENT

State of California)
County of NAPA)

On 10-12-2010 before me, Elizabeth Mayhew
(insert name and title of the officer)

personally appeared Thomas Keller

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Elizabeth Mayhew (Seal)
Signature of Notary Public



ACKNOWLEDGMENT

State of California)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
Signature of Notary Public

Attachment 3

FIRST AMENDMENT TO GUARANTY OF LEASE

THIS FIRST AMENDMENT TO GUARANTY OF LEASE ("First Amendment") is made as of October 18, 2010, (the "Effective Date") by the Guarantors as provided below for the benefit of The Parking Authority of the City of Beverly Hills, a parking authority established pursuant to the Parking Law of 1949 of the State of California ("Landlord"), with reference to the following facts:

Recitals

A. Landlord and Bouchon Beverly Hills, L.P., a California limited partnership ("Tenant"), entered into a Lease dated as of August 18, 2008, as amended by (i) a First Amendment to Lease dated as of April 7, 2009, (ii) a Second Amendment to Lease dated as of April 6, 2010, and (iii) a Third Amendment to Lease (the "Third Amendment") dated as of October 19, 2010 (as so amended, the "Lease").

B. Guarantors entered into that certain Guaranty of Lease dated as of August 18, 2008 ("Guaranty") pursuant to which the Guarantors have continuously guaranteed the performance under the Lease by Tenant.

C. As part of the Third Amendment (referenced in Recital A above), the Landlord and Tenant have agreed to modify certain financial provisions in the Lease which require a conforming amendment to the Guaranty as contained in this First Amendment.

Modifications

1. Section 2 of the Guaranty is hereby deleted and replaced with the following:

"2. Guaranty by Shamus & Peabody, LLC. Shamus hereby unconditionally guarantees, without deduction by reason of setoff, defense or counterclaim, to Landlord and its successors and assigns, the full and punctual payment, performance and observance by Tenant, of all of the amounts, terms, covenants and conditions in the Lease contained on Tenant's part to be paid, kept, performed and observed. Provided Tenant is not then in default under the Lease, the foregoing guaranty by Shamus shall terminate (hereafter the "Shamus Guaranty Termination") upon the date by which Tenant provides Landlord financial statements in the form required by Section 34 of the Lease, demonstrating that, in the aggregate, Tenant and Bouchon, L.P. ("Bouchon") have combined Liquidity (as defined in Section 34 of the Lease) of at least One Million and 00/100 Dollars (\$1,000,000.00), inclusive of the amount of the Security Deposit held by the Landlord as provided in Section 1(g) of the Lease, and a combined Net Worth (as defined in Section 34 of the Lease) of at least (a) Three Million and 00/100 Dollars (\$3,000,000.00), or (b) Two Million and 00/100 Dollars (\$2,000,000.00), provided that the deficit by which their combined Net Worth is less than the sum of Three Million and 00/100 Dollars (\$3,000,000.00) is caused solely by Tenant's distribution of earnings or capital to its owners. Following the Shamus Guaranty Termination, Shamus shall have no obligation hereunder and shall be relieved of all commitments, liabilities, costs, fees and penalties whether contingent or liquidated, known or unknown and whether owing or non-accrued as if such obligations, commitments, liabilities, costs, fees and penalties had

never been incurred or owed. The period commencing as of September 18, 2009 and continuing through the Shamus Guaranty Termination is referred to herein as the "Shamus Guaranty Period".

2. Section 5 of the Guaranty is hereby deleted and replaced with the following:

"5. Financial Status of Shamus and Bouchon as Guarantors. Tenant and Shamus, in the aggregate, shall have combined Liquidity (as defined in Section 34 of the Lease) of at least One Million and 00/100 Dollars (\$1,000,000.00) by December 31, 2011, inclusive of the amount of the Security Deposit held by the Landlord as provided in Section 1(g) of the Lease, and, at all times during the Shamus Guaranty Period, Tenant and Shamus shall have a combined Net Worth (as defined in Section 34 of the Lease) of at least (i) Three Million and 00/100 Dollars (\$3,000,000.00), or (ii) Two Million and 00/100 Dollars (\$2,000,000.00), provided that the deficit by which their combined Net Worth is less than the sum of Three Million and 00/100 Dollars (\$3,000,000.00) is caused solely by Tenant's distribution of earnings or capital to its owners. In no event shall the Net Worth of Tenant and Shamus, in the aggregate, be less than Two Million and 00/100 Dollars (\$2,000,000.00) during the Shamus Guaranty Period. At all times during the Bouchon Guaranty Period, Tenant and Bouchon, in the aggregate, shall have combined Liquidity (as defined in Section 34 of the Lease) of at least One Million and 00/100 Dollars (\$1,000,000.00), inclusive of the amount of the Security Deposit held by the Landlord as provided in Section 1(g) of the Lease, and a combined Net Worth (as defined in Section 34 of the Lease) of at least (i) Three Million and 00/100 Dollars (\$3,000,000.00), or (ii) Two Million and 00/100 Dollars (\$2,000,000.00), provided that the deficit by which their combined Net Worth is less than the sum of Three Million and 00/100 Dollars (\$3,000,000.00) is caused solely by Tenant's distribution of earnings or capital to its owners. In no event shall the Net Worth of Tenant and Bouchon, in the aggregate, be less than Two Million and 00/100 Dollars (\$2,000,000.00) during the Bouchon Guaranty Period. Each Guarantor shall provide Landlord the quarterly financial statements in the form and at the times required in Section 34 of the Lease."

3. In the event of a conflict or inconsistency between the terms and conditions of the Guaranty and the terms and conditions of this First Amendment, the terms and conditions of this First Amendment shall prevail and control.

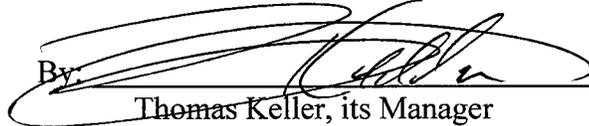
4. Except as specifically modified by this First Amendment, the Guaranty shall remain unaffected and unchanged. The Guaranty is hereby ratified and confirmed by Guarantors and remains in full force and effect, in accordance with its terms, as modified hereby.

5. By entering into this First Amendment and that certain Third Amendment to Lease dated substantially concurrently herewith, Landlord hereby waives any event of default of Guarantors under the terms of the Guaranty which may have occurred and are known to Landlord, or that have been noticed by Landlord to the Guarantors, prior to the execution of this First Amendment.

6. The Guarantors hereby (i) approve the Third Amendment, (ii) agree that the Third Amendment shall not release or waive any of the undersigned's obligations under the Guaranty, as amended, and (iii) agree that all obligations of the Guarantors under the Guaranty, as amended, shall apply to the Lease as modified by the Third Amendment.

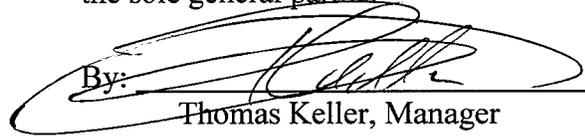
IN WITNESS WHEREOF, Guarantors have executed this First Amendment as of the date first above written.

SHAMUS & PEABODY, LLC

By: 
Thomas Keller, its Manager
6540 Washington Street
Yountville, CA

BOUCHON, L.P.,
a California limited partnership

By: Bouchon, LLC,
a California limited liability company,
the sole general partner

By: 
Thomas Keller, Manager
Bouchon, LLC
6540 Washington Street
Yountville, CA

Address for Notice to Landlord:

The Parking Authority of the City of Beverly Hills
455 North Rexford Drive
Beverly Hills, California 90210
Attn: Executive Director

With a copy to:

The Parking Authority of the City of Beverly Hills
455 North Rexford Drive
Beverly Hills, California 90210
Attn: Authority Counsel