



CITY OF LONG BEACH

DEPARTMENT OF PARKS, RECREATION & MARINE

2760 N. Studebaker Road, Long Beach, CA 90815-1697

(562) 570-3100 • FAX (562) 570-3109

www.lbparks.org

August 22, 2006

HONORABLE MAYOR AND CITY COUNCIL

City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager to execute a permit, and any amendments, with Harbor Breeze Corp., to provide and operate retail merchandising units (RMUs) on the Rainbow Harbor Esplanade (Esplanade), for a term of three years, with two three-year options to renew, at the sole discretion of the City Manager. (District 2)

DISCUSSION

Rainbow Harbor was officially opened nearly seven years ago. Since that time, development in Rainbow Harbor and the Pike Development Project has brought numerous retail and restaurant establishments to the area. The Department of Parks, Recreation and Marine (Department) determined that the placement of RMUs along the Esplanade would attract visitors to stroll the area and provide a benefit to both the visitors and area businesses. RMUs are kiosk type temporary units used to sell food and seasonal tourist oriented merchandise. The Department issued a Request for Proposal (RFP) in October 2004, for an RMU operator at the Esplanade. No responses were received for this RFP. Subsequently, the Department attempted to negotiate directly with the Pike lessee, Developers Diversified Realty (DDR), however an agreement could not be reached.

In October 2005, the Department received a proposal from Harbor Breeze Corp., to provide and operate RMUs along the Esplanade. The proposal was reviewed by the Department and deemed to meet the requirements of the previously issued RFP.

The major points of the proposed permit are as follows:

- **Premises:** Rainbow Harbor Esplanade, in locations pre-established by the City (see Exhibit 1 for approved RMU locations);
- **Permitted Uses:** A minimum of seven RMUs, up to a maximum of 19 RMUs, for the sale of food, beverages, and miscellaneous items, such as, but not limited to, souvenirs, gifts, novelties, clothing, and jewelry. Each RMU must be pre-approved by the Director of Parks, Recreation and Marine, or his designee (see Exhibit 2 for pictures of a sample RMU);

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- Storage: Storage of the RMUs is the responsibility of the Permittee. With prior approval of the Director of Parks, Recreation and Marine, or his designee, the RMUs may be stored in place;
- Regulatory Compliance: Permittee shall be responsible for obtaining all necessary permits that may be required by the City of Long Beach, Department of Planning and Building, the Department of Health and Human Services, and other City departments. The City has obtained approval of the RMU program from the California Coastal Commission;
- Fee: Ten percent of gross receipts from Permittee's RMU operations, paid quarterly to the Tidelands Operating Fund (TF) in the Department of Parks, Recreation and Marine (PR);
- Special Events: Permittee agrees that permitted operations may be prohibited or may be moved to an alternate location, at the discretion of the Director of Parks, Recreation and Marine, or his designee, during City-authorized special events;
- On-Site Advertising: The Director of Parks, Recreation and Marine, or his designee, must pre-approve all signs and banners within the City-controlled area adjacent to Rainbow Harbor and the Pike;
- Maintenance: The City will be responsible for all routine maintenance along the Esplanade. The Permittee shall be responsible for upkeep and maintenance of the RMUs, to the satisfaction of the Department. Permittee shall also be responsible for keeping the premises within 50 feet surrounding each RMU in a clean and sanitary condition;
- Utilities: The City will provide electrical and phone service to each RMU requiring access, to enable the merchants to accept credit cards;
- Insurance: Evidence of general liability, automobile, property, and workers' compensation insurance naming the City as an additional insured will be required, as specified by the City's Risk Manager; and
- Term: The permit will have an initial term of three years, but may be extended for two three-year terms at the sole discretion of the City Manager. Either party may terminate the Permit at any time with a 180-day written notice.

This matter was reviewed by Deputy City Attorney J. Charles Parkin on April 11, 2006, and Budget Management Officer David Wodynski on May 23, 2006.

TIMING CONSIDERATIONS

City Council action is requested on August 22, 2006, to enable the Permittee to begin operations as soon as possible.

FISCAL IMPACT

Permittee will pay ten percent of gross receipts, which is projected to be \$8,400 annually. Revenues resulting from the Permittee's area of operation will be deposited in the Tidelands Operating Fund (TF) in the Department of Parks, Recreation and Marine (PR).

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



PHIL T. HESTER
DIRECTOR OF PARKS, RECREATION AND MARINE

PTH:MS:bjg

Attachments

APPROVED:



GERALD R. MILLER
CITY MANAGER