



## Legislation Text

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**File #:** 17-0849, **Version:** 1

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Recommendation to authorize City Manager, or designee, to execute the Twenty-First Amendment to Lease No. 22897 with Jan and Michael Todd for the sale of Christmas trees, using a portion of the former Pacific Electric Right-of-Way property located between 7th Street and Ximeno Avenue; extend the lease for a period of three months, from October 1, 2017 through December 31, 2017; add two, one-year renewal options for the same three-month period in 2018 and 2019, at the discretion of the City Manager; and, amend the rent provision in the lease. (District 3)

Jan and Michael Todd (Lessee) have been selling Christmas trees in Long Beach for the past 58 years. On April 13, 1993, the City Council approved Lease No. 22897 (Lease) for the Lessee's use of a portion of the former Pacific Electric Right-of-Way (PE ROW) property located between Ximeno and Tremont Avenues, for the operation of a seasonal Christmas tree lot. During the 2010 holiday season, the Lessee was moved to a different portion of the PE ROW, located between 7th Street and Ximeno Avenue (Premises), as shown on the aerial map (Attachment). The Lessee has successfully operated at this location since that time and has requested to return there for another holiday season.

A Twenty-First Amendment to Lease No. 22897, is required to allow the Lessee to return to the Premises for the 2017 holiday season, and amend certain provisions in the Lease to allow for renewal options, a rent increase, and the addition of an annual rent escalator. The proposed Twenty-First Amendment contains the following major provisions:

- Term: October 1, 2017 through December 31, 2017.
- Renewal Options: Two consecutive one-year renewal options for the three-month period of October-December in 2018 and 2019, at the discretion of the City Manager, or designee.
- Premises: The portion of the former PE ROW located between 7th Street and Ximeno Avenue.
- Rent: As rent for the Lease has remained at \$4,000 per year since 2011, the Department of Parks, Recreation and Marine has negotiated and is proposing an immediate 9.88 percent rent increase to match the year-to-year change in the Consumer Price Index (CPI) from 2011 to 2017. This will result in an immediate increase of \$395, for a total payment of \$4,395, which will be due on or before January 15, 2018.
- Rent Escalator: Beginning on October 1, 2018, and in subsequent renewal periods, the \$4,395 rent shall be adjusted by the percent change in the CPI for All Urban Consumers, All

Items, Base Period 1982-84=100, for the Los Angeles-Riverside-Orange County, CA area (June to June), as published by the United States Department of Labor, Bureau of Labor Statistics (CUURA421 SAO).

- Authorized Use: The Premises shall be used for the seasonal sale of Christmas trees and ancillary items only.
- Maintenance/Restoration of Premises: The Lessee shall be solely responsible for maintaining the Premises in good condition, and shall restore the Premises to its original unused state, as deemed satisfactory by the City Manager, or designee.
- Utilities: The Lessee shall be solely responsible for all costs related to the temporary installation and use of utilities at the Premises.
- Insurance: The Lessee shall provide evidence of insurance as required and approved by the City's Risk Manager.

This matter was reviewed by Deputy City Attorney Linda T. Vu on September 8, 2017 and by Budget Management Officer Rhutu Amin Gharib on September 12, 2017.

City Council action is requested on October 3, 2017, to authorize the execution of the Twenty-First Amendment to Lease No. 22897.

In FY 18, revenue in the amount of \$4,395 will accrue to the General Fund (GF) in the Parks, Recreation and Marine Department (PR). There may be increases to this revenue in FY 19 and FY 20, depending on the percent change in the CPI; however, the exact amounts are unknown at this time. The recommended action will result in a positive impact on jobs. Several part-time jobs will be created by the Lessee to assist in its operation during the three-month period.

Approve recommendation.

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MARIE KNIGHT  
DIRECTOR OF PARKS, RECREATION AND MARINE

APPROVED:

PATRICK H. WEST  
CITY MANAGER

