



## Legislation Text

---

**File #:** 19-1224, **Version:** 1

---

Recommendation to authorize City Manager, or designee, to amend and restate Permit No. 27276 with Harbor Breeze Corporation, for the use of docks in Rainbow Harbor for charters, harbor cruises, and whale watching tours, for a term of 15 years, with three additional five-year renewal options, at the discretion of the City Manager. (District 2)

At its meeting on April 24, 2001, the City Council approved Permit No. 27276 with Harbor Breeze Corporation (Harbor Breeze) to operate charters, harbor cruises, and whale watching tours for a five-year term, with three additional five-year renewal options. Since that time, there have been four amendments to the lease exercising all renewal options and extending the term through November 30, 2027.

Harbor Breeze was one of the first commercial operators in the newly built Rainbow Harbor and has been the most successful single operator in the Rainbow Harbor (Attachment). Company sales have grown from approximately \$300,000 in 2001, \$3 million in 2011, and over \$7 million in 2018 and 2019. Harbor Breeze pays approximately \$150,000 a year in dock fees and paid the City approximately \$250,000 in percentage rent in 2019.

Harbor Breeze has been a leader in whale watching excursions in Southern California and has brought significant attention to the City of Long Beach (City) due to their success in the whale watching business. In addition, Harbor Breeze partnered with the Aquarium of the Pacific for whale watching and nature tours and has received positive remarks from Aquarium of the Pacific's Chief Executive Officer Jerry Schubel for its professionalism and contributions to Long Beach.

Harbor Breeze has again expanded its business operations with the purchase of a larger, state-of-the-art passenger vessel, the Sir Winston, which cost approximately \$5.3 million. The Sir Winston began operating out of Rainbow Harbor in July 2018. With the addition of the new vessel, Harbor Breeze sales have increased to over \$7 million per year, which has increased the City's commercial share. To amortize the cost of the new vessel, Harbor Breeze has approached the City with a request to amend and restate the permit term to fifteen years with three additional five-year renewal options. The amended and restated permit term would commence on January 1, 2020 through December 31, 2049, if all three renewal options are exercised.

The proposed lease amendment and restatement will contain the following revisions:

- Term: 15 years, beginning January 1, 2020 through December 31, 2034.

· Renewal Options: Three additional five-year renewal options, at the discretion of the City Manager.

· Permit Fee: Harbor Breeze will continue to pay 5 percent of annual gross receipts for the initial 15-year term. Upon execution of the first renewal option, the percentage rate will increase to 6 percent of annual gross receipts, with an annual minimum amount calculated at 75 percent of the average of annual gross receipts over the three previous permit years.

Upon execution of the second renewal option, the percentage rate will increase to 7 percent of annual gross receipts, with an annual minimum amount calculated at 75 percent of the average of annual gross receipts over the three previous permit years.

Upon execution of the third renewal option, the percentage rate will increase to 8 percent of annual gross receipts, with an annual minimum amount calculated at 75 percent of the average of annual gross receipts over the three previous permit years. Harbor Breeze will pay whichever is greater of the percentage rate and annual minimum amount for the duration of each of the three renewal options.

· Dock Fee: \$18.25 per linear foot occupied or reserved by Permittee or Rainbow Harbor Dock Rate as established by the City Council, or any rate subsequently adopted after amending and restatement of the permit. Permittee is currently assigned 700-feet of dock space on Docks 2, 3 and 7, or other Dock as approved by the Marine Bureau in Rainbow Harbor.

This matter was reviewed by Deputy City Attorney Arturo D. Sanchez on November 13, 2019 and by Revenue Management Officer Geraldine Alejo on November 18, 2019.

City Council action is requested on December 10, 2019, to ensure the Permit is in place expeditiously and avoid any interruption in concession services to Rainbow Harbor.

The City will receive an estimated annual revenue amount of \$400,000 during the initial 15-year term. Revenue will accrue in the Tidelands Area Fund Group in the Parks, Recreation and Marine Department. This recommendation has no staffing impact beyond the budgeted scope of duties and is consistent with existing City Council priorities. The recommendation will result in a positive impact on jobs, although the number of additional local jobs resulting from the hiring of subcontractors and seasonal personnel is unknown at this time.

Approve recommendation.

GERARDO MOUET  
DIRECTOR OF PARKS, RECREATION AND MARINE

APPROVED:

THOMAS B. MODICA  
ACTING CITY MANAGER