



Legislation Text

File #: 10-0064, **Version:** 1

Recommendation to authorize City Manager to execute a five-year extension of the contract, commencing January 1, 2011, with Sea Festival Association of Long Beach, Inc.; clarify language in the agreement as recommended in the Fiscal Year 2008 City Auditor's report; and make adjustments to the revenue sharing agreement with the City. (Citywide)

Started in 1931, the Long Beach Sea Festival was a grand event drawing thousands to the Long Beach shoreline to enjoy a host of summer events. Over the decades, the event dwindled to a small number of activities. In 2005, the City recruited a group of interested citizens to form the Sea Festival Association of Long Beach, Inc. (Association), a 501 (C)3 nonprofit, to take on the role of revitalizing and promoting the Sea Festival back to a major summer entertainment and economic event. On May 3, 2005, the City Council approved an agreement with the Association to develop and promote a Sea Festival program.

Today, this venture can be officially deemed a huge success. In the last three years, the Sea Festival has grown to almost 100 events, drawing over 12,000 participants and 270,000 spectators. Events include AVP Beach Volleyball, offshore power boat races, the Dragon Boat Festival, the Lobster Festival, concerts, and more. Following the 2007 Sea Festival, the Association commissioned an independent economic impact study, which credited the Sea Festival with producing \$5.6 million in direct annual economic impact. In addition, with the success and growth of the Sea Festival, the City has received strong advertising exposure in newspapers, magazines, and television.

As a result of the enormous success and to secure promoters and sponsors in longterm commitments, the City and Association wish to affirm this arrangement and extend the contract an additional five years.

In addition to the extension of the contract, City management wishes to use this opportunity to amend two other areas in the agreement. The first issue is to implement recommendations from the City Auditor's report of April 2008, and the second issue is to revise the revenue sharing calculation between the Association and the City.

In April 2008, the City Auditor issued a compliance audit report on the Association contract and identified sections in the contract that were deemed vague and difficult to interpret. These sections included:

- Insurance requirements for events;
- Contract term, financial reporting period, and fee calculation period;
- Gross revenue calculations, and the treatment of revenues related to events operated directly by the Association, such as the Mayor's Cup;
- Clarification of responsibilities and requirements in terms of City permits and the Association's contract provisions with regard to sanction agreements, supplier agreements, and other contracts.

These areas have been discussed with the City Auditor, and City management agrees that changes are warranted. Management has worked with the City Attorney in development of a new contract.

In addition, a new relationship between the Association and International City Racing has served to correct many of the operational issues identified in the audit, including:

- Aligning contracts with third-party operators and suppliers with the Association's City agreement;
- Defining the roles and responsibilities of each party in the oversight of events;
- Uniform processes and procedures to track all documentation pertaining to Sea Festival events, including City costs, insurance, sanction agreements, supplier agreements, and all other pertinent information.

Addressing the issue of revenue sharing, the original contract called for the Office of Special Events and Filming (OSEF) to receive on or before December 1 of each year the greater of 20 percent of gross revenue, or a guaranteed minimum annual payment, as shown in the following table. The intent of this language was to allow the Association to waive the nonprofit special event application and rent permit fees for event promoters as an enticement to be a part of the overall program, and to reimburse the City for costs, including the value of these waived fees.

2006	\$
2007	20,000
2008	40,000
2009	80,000
2010	150,000

The Association approached City management to highlight that the current minimum payments have no correlation to the waived fees. Moreover, given the current state of the economy, such growth in the guarantee may not be sustainable. Therefore, management and the Association have agreed to recommend that the formula be adjusted to the greater of 20 percent of gross revenue, or the value of the nonprofit application and rent permit fees that are waived for Sea Festival events (estimated between \$40,000 and \$50,000, depending on the number of events).

This matter was reviewed by Deputy City Attorney Gary J. Anderson on December 14, 2009, and Budget and Performance Management Bureau Manager David Wodynski on December 23, 2009.

City Council action is requested on January 19, 2010, to address the aforementioned existing contract issues that were identified by the City Auditor and Sea Festival Association of Long Beach, Inc., in order to allow the continuation of the Sea Festival program, and to assist the Association in soliciting long-term sponsorship and event agreements. .

The City will not bear any costs for Sea Festival-related events and activities promoted by the Association, other than through direct event productions or sponsorships. The Association and/or each event producer/operator and vendors will continue to obtain and pay all fees for all required permits, along with all City costs resulting from an event or activity. Per the agreement, these include,

but are not limited to, inspection fees, business license fees, and fees imposed for direct services provided by any City department, e.g., Police, Fire, Public Works, Development Services, Health and Human Services, Financial Management, and Water. No fees or reimbursements shall be waived in part, or in whole, without written approval from the City Manager. All revenue derived from these permit/inspection fees and reimbursements for services will ultimately be deposited in the department and fund from which the services were rendered, including the General Fund and the Tidelands Fund.

However, at the request of the Association, the OSEF special event application and rent permit fees will be waived as an incentive to event producers to locate in Long Beach. These waived fees will be recovered in full from the Association via the annual December 1 Agreement Fee received by the City from the Association, which will be the greater of 20 percent of all gross revenue, as articulated in the agreement, or the value of the waived nonprofit application and rent permit fees by OSEF. This change to the Agreement Fee will make null and void the original minimum \$150,000 payment owed to the City in 2010. All payments from the Association under the Agreement Fee will be deposited in the Special Advertising and Promotions Fund (SR 133) in the Department of Parks, Recreation and Marine (PR), including those beyond the value of waived OSEF fees.

Approve recommendation.

PHIL T. HESTER
DIRECTOR OF PARKS, RECREATION AND MARINE

NAME
TITLE

APPROVED:

PATRICK H. WEST
CITY MANAGER