



# CITY OF LONG BEACH

DEPARTMENT OF PARKS, RECREATION & MARINE

**C-14**



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December 1, 2015

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Authorize the City Manager to execute the First Amendment to Lease No. 29961 with Beach Ventures, Inc., for the operation of the Belmont Veterans Memorial Pier, to retroactively reduce the minimum rent, retroactively increase certain percentage rents, add an annual in-kind consideration for City of Long Beach use, and assign the lease to Beach Ventures International, Inc., successor in interest to Beach Ventures, Inc. (District 3)

## DISCUSSION

On April 18, 2006, the City Council authorized the City Manager to execute Lease No. 29961 (Lease) with Beach Ventures, Inc. (BVI), for the operation of the Belmont Veterans Memorial Pier (Pier), for a term of ten years, through August 31, 2016, with two, five-year extensions at the sole discretion of the City Manager. The Lease was awarded to BVI after it was the sole respondent to a Request for Qualifications (RFQ) issued by the Department of Parks, Recreation and Marine (PRM). In its response, BVI proposed significant improvements to and activities on the Pier, such as additional moorings, dinghy docks, boat rentals, and expansions of the existing meeting and eating spaces (Proposed Enhancements), which necessitated approvals from the California Coastal Commission.

Based on the Proposed Enhancements, the Lease included a monthly percentage rent consisting of a percentage of gross sales in nine different categories, or an annual minimum rent of \$13,500, whichever was greater. The annual minimum rent was also scheduled to increase every five years to mirror increases to the Consumer Price Index, and is currently at \$14,310 for the Lease year that ended on August 31, 2015.

For various reasons, many of the Proposed Enhancements were never implemented at the Pier. This, combined with, and exacerbated by, the recession that began in 2008, resulted in BVI never meeting its \$13,500 annual minimum rent, and only paying the realized percentage rents, which resulted in BVI being in arrears with the City of Long Beach (City) in each year of the Lease. BVI is currently paying down the balance owed, which accrued through August 31, 2013, pursuant to a mutually agreed upon monthly payment plan. However, no structural adjustment to the annual minimum rent has been made going forward.

In light of the above, BVI has requested a negotiated reduction in their annual minimum rent, retroactive to September 1, 2013, to a more realistic amount based upon their actual earnings. Therefore, for the two Lease years that began on September 1, 2013 and ended on August 31, 2015, the City is proposing a reduction in BVI's annual minimum rent from \$14,310 to \$7,000, which is equal to the total percentage rent collected by the City in Lease year 2014. This reduction would necessitate waiving \$14,620 in uncollected revenue from the last two Lease years. In subsequent Lease years, the annual minimum rent would be adjusted upward to 90 percent of the prior Lease year's cumulative annual percentage rent paid to the City.

In exchange for the reduction in their annual minimum rent, BVI has proposed an increase in the percentage rent paid for food and non-alcoholic beverage sales from 8 percent to 10 percent for the current and subsequent Lease years. In addition, BVI has proposed a provision of an in-kind donation of facility rental of the Pier to the City equal to \$5,000 per year, beginning immediately.

In addition to the aforementioned proposed changes to the Lease, BVI has requested that it be allowed to assign the Lease to Beach Ventures International, Inc., BVI's successor in interest, due to the death of a business partner.

The proposed First Amendment to Lease No. 29961 will contain the following provisions:

- Percentage Rent: The percentage rent for food and non-alcoholic beverage sales would increase from 8 percent to 10 percent for the current Lease year that began September 1, 2015.
- Annual Minimum Rent: The annual minimum rent will be reduced to \$7,000, retroactive to the September 1, 2013 through August 31, 2014, Lease year. For the Lease year that began on September 1, 2014 and ended on August 31, 2015, as well as every Lease year thereafter, the annual minimum rent will be adjusted upward to an amount equal to 90 percent of the cumulative annual sum of all percentage rent paid to the City in the prior Lease year (provided that that amount exceeds the current annual minimum rent). In no instance would the annual minimum rent be reduced further.
- City In-kind Use: Effective immediately, BVI shall provide the City with up to \$5,000 of in-kind facility rental, or other services, each Lease year.
- Assignment and Assumption: Due to the death of one of its business partners, BVI has ceased use of Beach Ventures, Inc., and has requested that the Lease be assigned to Beach Ventures International, Inc., its successor in interest.

This matter was reviewed by Deputy City Attorney Linda Vu on November 10, 2015, and by Budget Operations Administrator Grace Yoon on November 12, 2015.

TIMING CONSIDERATIONS

City Council action is requested on December 1, 2015, in order to enable the execution of the First Amendment to Lease No. 29961 in a timely manner.

FISCAL IMPACT

The recommended action will result in a revenue reduction in FY 16 of \$7,310 in the Tidelands Operations Fund (TF 401) in the Parks, Recreation and Marine Department (PR). A portion of the reduction will be offset by an annual in-kind donation of \$5,000, and an increase in percentage rent from food and non-alcoholic beverage sales from 8 percent to 10 percent, or approximately \$750 per year, for an approximate net reduction of \$1,560 in FY 16. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



STEPHEN P. SCOTT  
ACTING DIRECTOR OF PARKS, RECREATION AND MARINE

SS:EH:AGM:RL:ak

APPROVED:

  
PATRICK H. WEST  
CITY MANAGER