



## Legislation Text

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**File #:** 14-0063, **Version:** 1

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Recommendation to authorize City Manager to execute a non-exclusive Commercial License Agreement with Lee Ostendorf for the operation of a Farmers' Market at Bixby Park for a term of three years, with two, two-year renewal options at the discretion of the City Manager or his designee; as recommended by the Parks and Recreation Commission on November 14, 2013. (District 2)

Since June 2012, Lee Ostendorf (Mrs. Ostendorf) has operated a farmers' market at Bixby Park, located at 130 Cherry Avenue. To date, Mrs. Ostendorf has been operating pursuant to a temporary permit issued by the Office of Special Events and Filming to allow the Department of Parks, Recreation and Marine (PRM) to test the viability of this use of Bixby Park, a high-density area of the City of Long Beach (City) with limited access to fresh foods. PRM has established that there is enough support and demand from the community to allow Mrs. Ostendorf to continue operation of the farmers' market on a more permanent basis. Therefore, on November 14, 2013, the Parks and Recreation Commission recommended that the City Council authorize the City Manager to execute a non-exclusive Commercial License Agreement (Agreement) with Mrs. Ostendorf, as follows:

- Term: Three years, January 1, 2014 through December 31, 2016, with two, two-year renewal options at the discretion of the City Manager or his designee.
- Premises: Bixby Park, specifically, the central quad located east of the community center and south of the playground, as well as the basketball court and bandshell (Attachment). During the setup and cleanup of vendor booths, Mrs. Ostendorf, and her agents and/or vendors, may only use the cement walkways surrounding the farmers' market area for access; under no circumstances will vehicle traffic be allowed to use the grass areas surrounding the farmers' market.
- Permitted Use: Mrs. Ostendorf shall use the specified area of Bixby Park for the provision and operation of a weekly farmers' market.
- Hours of Operation: The farmers' market shall initially be held on Tuesdays from 3:00 p.m. to 7:00 p.m. during Pacific Standard Time, and from 3:00 p.m. to 8:00 p.m. during Daylight Savings Time. A total of four hours will be allowed for setup and cleanup (two hours prior to the opening of the farmers' market for setup, and two hours after its closing for cleanup).
- Vendor Fees: Mrs. Ostendorf shall collect six percent of gross sales from farmer/produce booths, and ten percent of gross sales from non-farmer/produce

booths, on a weekly basis.

- License Fee: Mrs. Ostendorf shall pay the City a license fee of one percent of the weekly total of vendor fees collected, from \$0 to \$4,000; or two percent of the weekly total of vendor fees collected, from \$4,001 to \$8,000; or three percent of the weekly total of vendor fees collected, from \$8,001 and above. In addition, Mrs. Ostendorf shall pay all applicable use fees for any restroom and after-hour community center use.
- Utilities: The City shall pay for all utilities utilized by the farmer's market during the permitted use, except for additional refuse deemed necessary by PRM, which shall be paid for by Mrs. Ostendorf.
- Insurance/Program Liability: Mrs. Ostendorf shall provide proof of insurance coverage as defined and accepted to sufficiency by the City's Risk Manager, on an annual basis or upon policy renewal and/or change.
- Termination Rights: Either party may terminate the Agreement, at any time, by providing a minimum of 30 days prior written notification.

This matter was reviewed by Deputy City Attorney Gary J. Anderson on December 20, 2013, and by Budget Management Officer Victoria Bell on December 23, 2013.

City Council action is requested on January 21, 2014, in order to enable the execution of the proposed Commercial License Agreement.

Revenue from the proposed Commercial License Agreement will accrue to the General Fund (GP) in the Parks, Recreation and Marine Department (PR). The recommended action will result in a positive impact on jobs, although the exact number is unknown at this time.

Approve recommendation.

GEORGE CHAPJIAN  
DIRECTOR OF PARKS, RECREATION AND MARINE

APPROVED:

PATRICK H. WEST  
CITY MANAGER