



Legislation Text

File #: 07-0522, **Version:** 1

Recommendation to authorize City Manager to execute an Exclusive Negotiating Agreement and a Right-of-Entry Agreement between the City of Long Beach and Long Beach Airpark, LLC, a California limited liability company, for the term of one-year for the proposed development of approximately 3.11 acres of City-owned property at the Long Beach Airport. (District 5)

The City of Long Beach is the owner of an undeveloped 3.11-acre parcel of land at the Long Beach Airport known as Parcel X-2 (see Attachment). On February 28, 2005, the City issued a Request for Qualifications for the development and operation of Parcel X2 for use as aircraft hangars, aircraft tie-downs and/or specialty aviation uses as approved by the City. As part of the development criteria, respondents were also asked to include in their proposals a self-operated aircraft wash down area to be built and operated in compliance with environmental rules and regulations. Of the six proposals received, five prospective developers were interviewed and Long Beach Airpark, LLC (Developer) was selected as the prospective developer for Parcel X-2.

Following the selection process, the Developer submitted its airspace plan as required to the Federal Aviation Administration for approval. Approval was subsequently granted. Due to the unknown conditions of Parcel X-2, it will be necessary for the Developer to perform preliminary soil testing and site review including the investigation of all easements and underlying utilities to determine the viability of its proposed development. Staff recommends the City enter into an Exclusive Negotiating Agreement and a Right-of-Entry Agreement (collectively, Agreements) with the Developer to allow access onto Parcel X-2 for testing and investigations and to facilitate the negotiation of a development agreement and/or a ground lease that will mutually benefit the City and the Developer.

The Agreements do not include any promise or commitment by the City, or any agency of the City, with respect to the approval of development. They are merely agreements to enter into a period of exclusive negotiations and to provide access to the site according to the terms of the Agreements, reserving final discretion and approval by the City Council of any subsequent development agreement or ground lease.

The proposed Exclusive Negotiating Agreement contains the following major terms and provisions:

- The City and the Developer agree to negotiate in good faith pursuant to the terms of the Agreement;
- The City and the Developer agree to negotiate for a period of up to one year after the execution of the Agreement;
- The Developer will formulate a revised development plan, including conceptual drawings, for the City's approval;
- The Developer will comply with all requirements for an environmental review pursuant to the

California Environmental Quality Act as necessary;

- All fees and expenses associated with engineers, architects, financial consultants, lawyers, planning consultants, and all other consultants and contractors retained by the Developer shall be the sole responsibility of the Developer.

The proposed Right-of-Entry Agreement contains the following major terms and provisions:

- The City grants access to the Developer and its duly authorized representatives to conduct pre-development testing and sampling. No other use is permitted;
- The Agreement is valid for a period of one year from the date of execution;
- The City shall receive copies of all test results and all other analyses at no cost;
- The Developer shall obtain all necessary permits for its activities;
- The Developer shall be responsible for obtaining any necessary record data for the site, including environmental status and reports and subsurface utility locations.

This letter was reviewed by Deputy City Attorney Richard F. Anthony on May 1, 2007 and Budget and Performance Management Bureau Manager David Wodynski on May 2, 2007.

City Council action is requested on May 15, 2007, in order to execute the Agreements to allow access to Airport Parcel X-2 for preliminary site investigations and to allow staff to continue exclusive negotiations with Long Beach Airpark, LLC, for the development of Parcel X-2.

There is no fiscal impact associated with the suggested action.

Approve recommendation.

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APPROVED:

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CITY MANAGER