



Legislation Text

File #: 11-0051, **Version:** 1

Recommendation to authorize City Manager to terminate and rescind License Agreement No. 8103 and enter into a new license agreement with the International Tower Owners Association (ITOA), a California corporation, for use of City-owned property located at 700 E. Ocean Boulevard. (District 2)

On December 12, 1969, the City and I.T. Partners, the property owner of the International Tower, located at 700 East Ocean Blvd. (Exhibit A), entered into a License Agreement to provide driveway access (Driveway) to the International Tower over the City's Victory Park. The License Agreement was revised several times, including on May 2, 1986, after the apartment building was converted into condominiums and a new parking structure was built. As a condition of approval for the condominium conversion project and construction of the new parking structure, the City and Coastal Commission required I.T. Partners to construct a promenade for public access (Public Promenade) around their property, grant an easement to the City over the Public Promenade (Exhibit B), and to maintain it at its sole expense in perpetuity. As part of the License Agreement, I.T. Partners agreed to pay an annual fee of \$5,000. I.T. Partners subsequently assigned its rights and duties under the License Agreement to ITOA.

On July 17, 2009, City staff received a letter from ITOA's legal counsel inquiring into maintenance responsibility of Victory Park and the Public Promenade. In the letter, ITOA states it has maintained the park "areas from time immemorial, although these areas are public property". City staff investigated the matter and found that, while the original License Agreement required I.T. Partners to maintain the portion of Victory Park immediately adjacent to its property, the 1986 License Agreement does not. Nonetheless, the International Tower has continued to maintain the park.

In order to continue providing Driveway access and address the need to maintain Victory Park and the Public Promenade, staff recommends a new license agreement under the following major terms and provisions:

- **Licensor:** City of Long Beach.
- **Licensee:** International Tower Owners Association, a California general partnership.
- **Premises:** Driveway, Victory Park, and Public Promenade located at 700 E. Ocean Boulevard as depicted on Exhibit B.
- **Permitted Use:** (I) Exclusive vehicular access, ingress and egress over the Driveway, and (II) Non-exclusive access to conduct maintenance services of Victory Park and Public Promenade. The Park and Promenade shall at all times remain open and available to the public.
- **Term:** The term shall be effective as of the date the agreement is executed by both parties

and shall terminate upon the earlier of (i) the date on which the current structure located at 700 East Ocean Boulevard no longer exists, or (ii) the structure is no longer operated as a residential condominium tower.

- License Fee: In exchange for maintaining Victory Park, the License Fee will be waived.
- Insurance: Licensee shall provide revised insurance coverage as defined by the City's Risk Management Office.

This letter was reviewed by Deputy City Attorney Richard Anthony on November 29, 2010 and by Budget and Performance Management Bureau Manager Lou Palmer on December 1, 2010.

City Council action is requested on May 3, 2011, in order to enable the execution of the revised License Agreement.

The 2009, 2010 and all future \$5,000 annual license fees will be waived in exchange for the continued maintenance of Victory Park. There is no local job impact associated with this recommendation.

Approve recommendation.

MICHAEL P. CONWAY
DIRECTOR OF PUBLIC WORKS

APPROVED:

PATRICK H. WEST
CITY MANAGER