



## Legislation Details (With Text)

<b>File #:</b>	06-0325	<b>Version:</b>	1	<b>Name:</b>	PRM-Agreement with Beach Ventures, Inc
<b>Type:</b>	Contract	<b>Status:</b>		<b>CCIS</b>	
<b>File created:</b>	4/13/2006	<b>In control:</b>		<b>City Council</b>	
<b>On agenda:</b>	4/18/2006	<b>Final action:</b>		<b>4/18/2006</b>	
<b>Title:</b>	Recommendation to authorize City Manager to execute a Lease and Operating Agreement with Beach Ventures, Inc., and all documents necessary for the operation of food and beverage concessions, a restaurant, retail/merchandise sales, miscellaneous commercial recreational equipment and services, vessel provisioning, and a welcome center at the Belmont Veterans Memorial Pier for a ten-year term, with two five-year extension options, at the sole discretion of the City Manager. (District 3)				
<b>Sponsors:</b>	Parks, Recreation and Marine				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. C-17sr, 2. C-17att				

Date	Ver.	Action By	Action	Result
4/18/2006	1	City Council	approve recommendation	Pass

Recommendation to authorize City Manager to execute a Lease and Operating Agreement with Beach Ventures, Inc., and all documents necessary for the operation of food and beverage concessions, a restaurant, retail/merchandise sales, miscellaneous commercial recreational equipment and services, vessel provisioning, and a welcome center at the Belmont Veterans Memorial Pier for a ten-year term, with two five-year extension options, at the sole discretion of the City Manager. (District 3)

Following the departure of the longtime fishing concession located at the end of Belmont Veterans Memorial Pier (Pier), the Department of Parks, Recreation and Marine (Department) took the opportunity to consider the development of the Pier into a destination site. Last summer, the Marine Bureau issued a Request for Qualifications (RFQ) to solicit interest in site development, including a restaurant operation and commercial recreational activities. The RFQ was distributed to 23 companies. One response was received from Beach Ventures, Inc. (BVI), an operator of food and beverage concessions, catering services, and equipment rentals in Long Beach and the Southern California area for more than 29 years. BVI's proposal for the Pier development includes the operation of food and beverage concessions, a restaurant operation, retail merchandise sales, miscellaneous commercial recreational equipment rentals and services, vessel provisioning, and the operation of a welcome center. BVI also proposes to assume sole responsibility for the cost of all improvements associated with the development.

In addition to City Council authorization, implementation of BVI's proposal is subject to the issuance of a Coastal Development Permit and compliance with other regulatory agencies' requirements, including the Department of Planning and Building. The Department has an existing Coastal Development Permit that authorizes food and beverage concessions, consistent with the historical use of the building at the end of the Pier; tram services, shore boat service; fishing charters; and whale watching tours and sailing charters. When the existing Coastal Development Permit was

issued an environmental review and parking demand calculations were performed. In 2004, the Pier parking lot was reconfigured, creating additional parking spaces to accommodate anticipated demand.

The Coastal Commission approved an administrative permit for the welcome center last summer. The Marine Bureau is currently working with the Coastal Commission to obtain an additional permit for food cart service, the restaurant operation, and commercial recreational equipment rentals and services, and vessel provisioning. Commencement of these operations is subject to the issuance of a Coastal Development Permit. The proposed restaurant alcoholic beverage sales are subject to licensing by the State of California Department of Alcoholic Beverage Control.

The Marine Bureau has reviewed BVI's financials and has determined that they have the resources to adequately manage the proposed development and operations. In January 2005, BVI's proposal was presented to the Marine Advisory Commission and received a recommendation for approval by the City Council. The Department's executive staff met with BVI owner Fred Khammar and agreed on a Lease and Operations Agreement (Agreement) for the Pier development and operations, for a term of ten years, with two five-year extension options, at the sole discretion of the City Manager. The major points of the proposed Agreement are as follows:

Premises: Pier area seaward of the entry portal and the entry portal area (see Attachment "A");

Authorized Use: Food cart and snack service; restaurant operation, and alcoholic beverage service on the first floor of the building; bike, boat, jet ski, and kayak rentals; bait and tackle sales; vessel provisioning; tram and beach shuttle services; fishing charters; whale watching tours; sailing charters; and, operation of a welcome center. Commencement of food cart service, restaurant operation, commercial recreational equipment rentals and services, and vessel provisioning is subject to the issuance of a Coastal Development Permit. Alcoholic beverage sales are subject to licensing by the State of California Department of Alcoholic Beverage Control;

Minimum Rent: BVI shall pay the City minimum annual rent-in the amount of \$1 3,500;

Percentage Rent Fees:

Filming and bike rentals - 15.0%

Movies, catered events, special events, alcohol sales - 10.0%

Cart sales, retail/merchandise sales, bait and tackle sales - 7.5%

Foodsales- 8.0%

Vessel charters from Pier, shore boat service, 5.0%

vessel rentals, shuttle services and vessel provisioning

The aggregate percentage rent payments shall be equal to or greater than the minimum annual rent;

Rental Adjustments: The City shall have the right to negotiate the rental rates every five years during the contract. The initial rates are comparable to other beach concession and restaurant operations on Los Angeles County and Orange County waterfront property. The rates shall be negotiated at the sole discretion of the City using the U.S. Department of Labor Bureau of Labor Statistics Consumer Price Index (CPI) for Los Angeles-Riverside-Orange County, CA. The month of January shall be the base month for the CPI increase calculation. The increase shall be no less than 3 percent and no greater than 6 percent;

Maintenance and Repairs, and Restrooms: The Department and BVI shall agree upon designated responsibilities for maintenance, repairs and restrooms;

Trash: BVI shall be responsible for removal of all trash from the Premises associated with agreement activity, including the restaurant;

Utilities: BVI shall pay all utility costs associated with the authorized uses;

Insurance: Evidence of insurance for, but not limited to, general liability, automobile, property and workers' compensation insurance naming the City as an additional insured will be required as specified by the City's Risk Manager; and,

Term: Ten-years, with two five-year extension options, at the sole discretion of the City Manager.

This matter was reviewed by Deputy City Attorney J. Charles Parkin on April 3, 2006, and by Budget Management Officer David Wodynski on April 10, 2006.

City Council action is requested on April 18, 2006, to enable BVI to begin the operations that have already been permitted by the Coastal Commission

The \$13,500 annual minimum rent along with the percentage rents will be deposited in the Tidelands Fund (TF) in the Department of Parks, Recreation and Marine (PR).

Approve recommendation.

PHIL T. HESTER  
DIRECTOR OF PARKS, RECREATION AND MARINE

APPROVED:

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GERALD R. MILLER  
CITY MANAGER