



STAFF REPORT

TO: Property Committee
FROM: Andrea K. Lueker, Harbor Manager
DATE: September 12, 2019
SUBJECT: Harford Landing Trailer Boat Building Lease Site

Recommendation / Proposed Motion

- Recommendation: Review and discuss the vacant market lease site located in the Harford Landing Trailer Boat Building and provide a recommendation for consideration by the Board of Commissioners.

Policy Implications

Contracts Management Policy 3037 established policy for the development of contract agreements for private operations of District facilities.

District Ordinance Chapter 4, paragraph 4.030 authorizes the District to establish agreements with lessees for payment of the private use of District facilities.

District Major Objective/Goal

Objective #2 – Expand money generating opportunities to support harbor operations that are consistent with lessees for payment of the private use of District facilities.

Fiscal Implications / Budget Status

None at this time.

Alternatives Considered

The following actions were considered but are not recommended at this time:

- None at this time.

Background

On April 23, 2019, the Harbor Commission selected Brian Englund, dba Kuma Café, as the finalist in the Harford Landing Trailer Boat Building RFP that was issued by the Port San Luis Harbor District. Kuma Café withdrew from negotiations on August 6, 2019.

The Trailer Boat Building Lease Site item was brought to the Harbor Commission on August 27, 2019, with the staff recommendation of releasing a new RFP for the vacant market lease site. During the public comment portion of the meeting, one of the existing lessees indicated interest in the site. After discussion, the Board of Commissioners took no action and asked Legal Counsel

and staff to further review the legalities in relation to leasing of District Property and then return this item to the Property Committee in September.

Discussion

District Staff and Legal Counsel have researched the District's Policies as well as the Harbor and Navigation Code and found the following. Port San Luis Harbor District Policy No. 3037 – Contracts Management (Attachment 1) references the Harbors and Navigation Code (HNC) Section 72 as the baseline for legal requirements and addresses negotiating agreements without issuing an RFP.

1. HNC Section 72 states the following:

“Facilities may not be leased in whole or in part to a private concessionaire or lessee until the legislative body has published a notice...inviting bids and has otherwise complied with this section. And, at the time and place fixed in the notice, the legislative body shall meet and consider all bids that have been submitted. The lease shall be awarded to the highest responsible bidder...”

2. Port San Luis Harbor District Policy No 3037.50, item iv, Negotiated Agreement Without Issuing a Request for Proposals, states the following:

Under unusual circumstances (unusual circumstances are not defined and do not supersede the legal requirements) as determined by the Harbor Commission (see Harbors and Navigation Code Section 72 for legal requirements). Otherwise the following conditions must be met:

- a. Renewal of existing contract.
- b. Short term (5 years or less).
- c. Should provide for the same or higher rent return to the District for the current use.
- d. Renegotiation of current leases where the tenant is seeking a rent reduction may trigger a public bid process.
- e. Must be for existing uses.
- f. Any proposed change in use for a lease facility may trigger a public bid process.
- g. Only one such negotiation per lessee or that modifies or amends a specific, existing contract shall be allowed.

After a thorough review and discussion with District Staff and Legal Counsel and based on the HNC Code as well as District Policy, under these circumstances, the District is obligated to move forward with an RFP process. However, the Property Committee does have the ability to review the suggested terms of the RFP (Attachment 2 - August 27, 2019, Board Meeting Staff Report) and suggest amendments to those for consideration by the Board of Commissioners at their September 24, 2019, meeting.

Conclusion

Based on further review, District Staff and Legal Counsel recommend the RFP be returned to the September 24, 2019, Board of Commissioners' meeting for a final review prior to advertisement.

- Attachment(s):
1. Port San Luis Harbor District Policy No. 3037 – Contracts Management
 2. Harford Landing Trailer Boat Building Lease Site Staff Report from the Board of Commissioners' meeting on August 27, 2019