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OFFICE OF THE CITY CLERK
OAKLAND

2017 FEB -2 PM 5:08

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director

SUBJECT: A License Agreement with
Agricultural Institute of Marin To
Operate a Farmer's Market Each
Saturday

DATE: January 24, 2017

City Administrator Approval

Date:

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Authorizing City Administrator Or Designee, Without Returning To Council, To Negotiate And Execute A License Agreement With Agricultural Institute Of Marin To Operate A Farmers Market Every Saturday On A Portion Of The Property Commonly Known As "Grand Lake Splash Pad Park," Located At 484 Lake Park Avenue, For A Term Of Five Years With Mutually Agreed Upon Five, One-Year Renewal Options And Adopting California Environmental Quality Act Exemption Findings

EXECUTIVE SUMMARY

Pursuant to the License Agreement for Farmers' Market (2015), dated as of September 1, 2015 ("2015 License Agreement") by and between the Agricultural Institute of Marin ("AIM") and City of Oakland ("City"), AIM operates a farmers market in the Grand Lake Splash Pad Public Park ("Splash Pad Park"), every Saturday between the hours of 6:00 A.M. and 4:00 P.M. AIM currently desires to continue operating the farmers market at Splash Pad Park for a five year term with five, one year options to renew. AIM has performed satisfactorily under the terms and conditions of the 2015 License Agreement that is due to expire, and has spent over \$39,000 to perform capital improvements to the licensed area. In addition, to help relieve the parking congestion, AIM has secured a permit with the Oakland Unified School District for the use of its parking lot during the farmers market' hours of operation. AIM would like to enter into a new license agreement with a five-year term with "mutually agreed upon," five one-year options to renew. Staff recommends the passage and adoption of an Ordinance authorizing the City Administrator to execute a license agreement with AIM since a five year term with five, one year options to renew will likely encourage AIM to continue to invest capital improvement moneys to the Splash Pad Park and continue to bring value to the residents of the City in the Grand Lake and nearby surrounding neighborhoods with the successful operation of the farmers market every Saturday of the month.

In September 2015, under the authorization of the City Administrator, City and AIM formalized

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the 2006 Encroachment Permit into a license agreement for a term of one year with the understanding that City would seek City Council authorization to execute a longer term license agreement after the 2015 License Agreement expired.

BACKGROUND / LEGISLATIVE HISTORY

Oakland Municipal Code section 12.08.030 authorizes the issuance of encroachment permits for events that take place on streets and sidewalks and are open to the public and sponsored by merchant associations representing the majority of merchants in the area. The Lakeshore/Lake Park Business Improvement Management District ("LLPBIMD") desired to establish and maintain a farmers market to stimulate the economic viability of, encourage the public's attendance in, and advance the pedestrian access throughout the Grand Lake business area. LLPBIMD determined that a farmers market in its business district would best serve the public by operating each Saturday of the month. Pursuant to Oakland City Council Resolution No. 80034 C.M.S. dated July 18, 2006 ("Resolution"), Marin County Farmers Market Association ("MCFMA" or "Association") was granted a conditional and revocable encroachment permit to operate an open-air farmers market in Splash Pad Park each Saturday between the hours of 6:00 A.M. and 4:00 P.M. AIM is the successor corporation to the Association and as such is the holder of the Encroachment Permit authorized by the City Council pursuant to the Resolution.

After several years of successfully operating the farmers market, on September 1, 2015, the City agreed to formalize the encroachment permit and entered into the 2015 License Agreement with AIM for one year. AIM desires to continue its operation of the farmers' market and seeks to extend the license agreement.

ANALYSIS AND POLICY ALTERNATIVES

The key issue is whether the City should extend the term for an additional five years, with five one-year options to renew, ending December 31, 2027.

Staff recommends the passage and adoption of this Ordinance authorizing the City Administrator or designee to enter into a License Agreement with AIM for an additional five years with five one-year options, which will be mutually agreed upon, for the following reasons:

- 1) The Lakeshore/Lake Park Business Improvement Management District has determined that the farmers market is an added value to this business district. The farmers market has contributed to the stimulation of the economic viability of the neighborhood. One of the City of Oakland's many goals is to support the vitality of commerce throughout the City and to sustain the communication between business and the public through pedestrian-oriented endeavors wherever practical. The popularity of the farmers market has grown over the years and has significantly contributed to this goal. Each week, between 4,000 and 6,000 people visit the market.
- 2) AIM is a 501(c)(3) nonprofit organization whose mission is to educate the public about the nutritional and economic benefits of buying locally grown food directly from farmers and to connect and support communities and agriculture. AIM operates seven farmers

markets in the Bay Area, including the Farmers Market at Splash Pad Park; and for 32 years has been bringing farmers and communities together. The farmers market features over 40 farmers, 30 specialty food purveyors, and a handful of local artisans.

The Grand Lake Farmers Market is the recipient of numerous awards and is regarded as one of the premier farmers markets in the East Bay. The Grand Lake Farmers Market was named Best Farmers Market in 2007, 2008, 2011, 2014, 2015, and 2016 by Oakland Magazine and by the East Bay Express in 2008, 2010, and 2012. In addition to providing a family-friendly, community-centered event every Saturday for the residents of Oakland, AIM has distributed over \$57,800 in food security benefits (CalFresh and Market Match) since May 2015.

- 3) AIM has successfully and satisfactorily fulfilled the terms and conditions set in the original Encroachment Permit and the current one-year license agreement. Rather than executing a one-year license agreement each year, staff believes it is in the best interest of the City to establish a five-year term with five one-year options to renew with a proven Oakland farmer's market operator.

FISCAL IMPACT

Staff costs for processing the proposed license agreement will be covered by fees set by the Master Fee Schedule. Licensee will pay \$1,000 per month rent for the usage of the leased area. The standard conditions of the license agreement require the licensee to maintain liability and property damage insurance and to include the City as an additional insured on the policy.

PUBLIC OUTREACH / INTEREST

No additional public outreach was conducted by staff for the proposed action beyond the standard City Council agenda noticing procedures.

COORDINATION

This report and the actions discussed have been coordinated with staff from the City Administrator's Office, the City Attorney's Office, and the Controller's Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: The farmers market will continue to improve the economic vitality of the business district and the health of the neighborhood by supporting ready access to fresh and healthy food products, by attracting new customers and encouraging frequent return visits. It continues to promote pedestrian use of the park and encourages positive regional publicity. The farmers' market venue supports small family farms, acts as incubator for entrepreneurial agriculture, and decreases purchase prices while increasing profit margins.

Environmental: The conditions of the license agreement require that AIM perform the following:

- Contain and remove litter, trash, and other deleterious materials from the park and the adjoining public sidewalks,
- Install affirmative methods to curtail the introduction of deleterious materials into the storm drain system (which drains to the bay),
- Provide protective devices (ground tarpaulins, etc.) to mitigate damage to landscaping and impervious surfaces in the park, and
- Provide and maintain supplemental portable toilets for use by the patrons and vendors.

Social Equity: The farmer's market venue promotes attendance by and the continued patronage of a culturally diverse cross-section of the community.

CEQA

Intermittent use of a segment of the public park for private commercial activities is categorically exempt from the provisions of the California Environmental Quality Act (Title 14 of the California Code of Regulations, section 15301).

Sabrina B. Landreth

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ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt An Ordinance Authorizing City Administrator Or Designee, Without Returning To Council, To Negotiate And Execute A License Agreement With Agricultural Institute Of Marin To Operate A Farmers Market Every Saturday On A Portion Of The Property Commonly Known As "Grand Lake Splash Pad Park," Located At 484 Lake Park Avenue, For A Term Of Five Years With Mutually Agreed Upon Five, One-Year Renewal Options And Adopting California Environmental Quality Act Exemption Findings

For questions regarding this report, please contact James Golde, Real Estate Manager, at 510 238-6354.

Respectfully submitted,



MARK SAWICKI
Director, Economic and Workforce
Development Department

Reviewed by:
James Golde
Manager, Real Estate Division

Prepared by:
Thang Nguyen, Real Estate Agent
Real Estate Division

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CED Committee
February 14, 2017

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Approved as to Form and Legality

CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C. M. S.

AN ORDINANCE AUTHORIZING CITY ADMINISTRATOR OR DESIGNEE, WITHOUT RETURNING TO COUNCIL, TO NEGOTIATE AND EXECUTE A LICENSE AGREEMENT WITH AGRICULTURAL INSTITUTE OF MARIN TO OPERATE A FARMERS MARKET EVERY SATURDAY ON A PORTION OF THE PROPERTY COMMONLY KNOWN AS "GRAND LAKE SPLASH PAD PARK," LOCATED AT 484 LAKE PARK AVENUE, FOR A TERM OF FIVE YEARS WITH MUTUALLY AGREED UPON FIVE, ONE-YEAR RENEWAL OPTIONS AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION FINDINGS

WHEREAS, Oakland Municipal Code section 12.08.030 authorizes the issuance of encroachment permits for events that take place on streets and sidewalks and are open to the public and sponsored by merchant associations representing the majority of merchants in the area; and

WHEREAS, The Lakeshore/Lake Park Business Improvement Management District ("LLPBIMD") desired to establish and maintain a farmers market to stimulate the economic viability of, encourage the public's attendance in, and advance the pedestrian access throughout the Grand Lake business area; and

WHEREAS, Pursuant to Oakland City Council Resolution No. 80034 C.M.S. dated July 18, 2006, the Marin County Farmers Market Association ("Association") was granted a conditional and revocable encroachment permit for a Farmers Market in the Grand Lake Splash Pad Public Park ("Splash Pad Park") every Saturday between the hours of 6:00 A.M. and 4:00 P.M.; and

WHEREAS, Agricultural Institute of Marin ("AIM") became the successor corporation to the Association and as such is the holder of the Encroachment Permit authorized by the City Council; and

WHEREAS, In September 2015, under the authorization of the City Administrator, City and AIM formalized the Encroachment Permit into a license agreement for a term of one year for \$1,000 per month, with the understanding that City would seek City Council authorization to execute a longer term license agreement after the initial license agreement expired; and

WHEREAS, AIM has performed satisfactorily under the terms and conditions of an initial one-year license agreement that is due to expire, and has spent over \$39,000 to perform capital improvements to the licensed area; and

WHEREAS, AIM would like to enter into a license agreement with a five-year term with mutually agreed upon five, one-year options to renew; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied;

NOW THEREFORE THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. Adoption of the proposed Ordinance will authorize the City Administrator or designee to negotiate and execute a License Agreement with AIM for the use of Splash Pad Park located at 484 Lake Park Avenue in Oakland for as a farmer's market every Saturday from 6:00 a.m. to 4:00 p.m.

Section 3. Council hereby finds and determines that the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied.

Section 4. The License Agreement shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution by the City and a copy shall be filed with the Office of the City Clerk.

Section 5. This Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

Section 6. The City Administrator or designee is hereby authorized to file a notice of exemption with the Office of the Alameda County Recorder and to take any other action necessary in furtherance of the Project, consistent with this Ordinance and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of Council
of the City of Oakland, California

DATE OF ATTESTATION: _____