



Information Item

Date: September 24, 2007

To: Mayor and City Council
From: Andy Agle, Director of Housing and Economic Development
Subject: Small Business Incentives in Leasing and Licensing RFPs

Introduction

This information item responds to Council's request of September 27, 2005, for additional information regarding how the City's procedures affect the success of small businesses who participate in the City's competitive Request for Proposal processes. This discussion is specific to City-owned real estate, and does not extend to categories such as the purchase of equipment, contracts for services, etc. The report concludes that current practices in most cases have resulted in the selection of local, small businesses, and that these practices should be incorporated into an administrative regulation to guarantee consistency in policy and practice throughout the organization.

Background

When offering leasing and licensing opportunities in City-owned facilities, the City seeks tenants and licensees who, at a minimum, are financially responsible, have good industry references, can obtain funds for needed capital investment and on-going operations, have the experience to perform in accordance with the terms of the RFP, and provide exceptional service and/or products. The goal of the RFP process is to ask

for information that will allow the raters to evaluate the proposal, screen out those who do not meet minimum qualifications, and rank those who offer the most promise for providing a successful operation.

The City Council has adopted Leasing Guidelines for the Santa Monica Pier, the Bayside District, non-aviation leasing at Santa Monica Airport, and Bergamot Station. The Bayside District and Pier Leasing Guidelines state a preference for local businesses. The Bayside District Leasing Guidelines, which are similar to the Pier Leasing Guidelines, state:

Bayside Local Preference

“The leasing and licensing of all City-owned properties and rights-of-ways within Bayside District will be subject to a preference for local independent, non-formula businesses and community services that are financially and operationally capable of providing the Preferred Uses. Such preference will be reflected in bonus ratings for responses received from non-formula independent business as part of a public Tenant Recruitment process. A formula business is defined as a business headquartered outside the City of Santa Monica, with three or more sites outside the City of Santa Monica that requires by contractual or other arrangement, the maintenance of standardized service, décor, uniforms, facility design and format substantially identical to another option.”

On September 27, 2005, after discussion regarding the beach concession recruitment process then in progress, Council asked whether the City’s RFP process discourages small businesses, and if so, what could encourage the success of small businesses. To perform this analysis, City staff reviewed six RFP’s offering a total of eight sites that were issued during the last three years for the following locations and operations:

Bayside: North Pavilion; South Pavilion (two sites)

Pier: 250 Santa Monica Pier (“SMP”), 2005 and 2007 (negotiations are currently underway for the recommended licensee from the 2007 recruitment)

Other: Library Café; Beach Concessions, Beach Café, and Civic Auditorium (“Beach RFP”)

Discussion

Local Preference: The four RFPs for leasing opportunities within the Bayside and Pier were subject to separate Council-adopted Leasing and Licensing Guidelines. Although the Bayside District Corporation’s Land and Assets Committee has been reviewing its Leasing Guidelines and is considering elimination of the “local preference” discussion, currently, both the Bayside and Pier Guidelines call for bonus ratings for local businesses. Bonuses are typically granted when the operator is deemed exemplary. An existing operator in violation of an agreement (such as for late payment of rent, failure to maintain appropriate insurance, etc.) would not be granted bonus rating. While each of the rating committees discussed local preference, only the rating sheets for the Promenade South Pavilion and 250 SMP 2005 provided a category to capture bonus points. The relative weight of local preference bonus points was determined by each rating committee.

Six RFPs offered opportunities for leasing or licensing of eight sites. Four licenses were awarded to existing Santa Monica businesses (South Pavilion (2), Library Café, and Beach Concessions). Two licenses (250 SMP and Bayside North Pavilion) were

awarded to independent, small businesses from the West Los Angeles area. Two sites (Beach Café and Civic Auditorium concession) were unfilled following the RFP process.

Local Advertising: All of the Request for Proposals involved restaurant, café, or concession sites, with the exception of the South Pavilion, which included one retail site. The review found that in all cases, the leasing opportunities were advertised locally in the Santa Monica Daily Press, on the City's web site, on Bayside's web site (for Bayside leasing opportunities), in the Los Angeles Times, and through direct mailing to interested parties. In some cases, additional methods of advertising were utilized, including placing banners on the Library and 250 Santa Monica Pier and sending postcards to Santa Monica restaurants. The advertising times varied from approximately 45 – 90 days.

Prerequisites: The years of prior related experience required in the RFPs varied from unspecified to five years. Except as described below, four of the RFPs were no more than approximately 15 pages in length and were accessible by requesting a free copy from staff. Minimum investment requirements were all unspecified, with the exception of the Beach Concessions (\$525,000), Beach Café (\$208,000), and Civic Auditorium (\$50,000) RFP. Respondents were, however, requested to provide evidence of adequate financial resources to operate the business. Respondents were asked to provide descriptions of proposed improvements, along with the source of funding for improvements.

“One-off” versus “formula” businesses: All RFPs generated responses from independent, non-chain businesses:

- Promenade North Pavilion (12 of 19)
- Promenade South Pavilion (19 of 21)
- 250 SMP 2005 (1 of 2)
- 250 SMP 2007 (9 of 9)
- Beach Concessions, Beach Café, and Civic Auditorium (1 of 1)
- Library Café (11 of 12).

Leasing opportunities and basic stated requirements in the City’s RFPs are tailored to a specific site. Formula restaurants and stores have specific requirements for their locations and usually use brokers to identify sites that meet their requirements. We have found that although some formula operations may express initial interest in the City’s RFP, they often do not submit proposals. Small businesses that are familiar with the area seem to have been more competitive in the City’s process as they can adapt to unusual circumstances more easily. As noted above, the number of responses to the City’s RFPs has varied, but in general, has been good.

The RFP for the Beach Concessions, Beach Café, and Civic Auditorium generated only one response. This RFP was exceptionally thorough and more detailed than the other RFPs. Operators were invited to respond to any or all of the three separate opportunities. The RFP consisted of three volumes (Request for Proposal, Exhibits, and Sample Agreements.) The RFP, which was prepared by a restaurant consultant, required a list of submittal items that included, among other things, menus and pricing,

sketches and renderings of building improvements, specification sheets for beach equipment to be rented, proposed rental contracts for the equipment, a description of food preparation methods, and a description of proposed operations. The RFP required respondents to attend a mandatory pre-bid conference. Pre-bid conferences were conducted in four of the five RFPs, but the pre-bid meeting was mandatory only for the Beach Concessions, Beach Café, and Civic Center RFP. It also required a \$2,500 proposal submittal deposit which was to be returned to unsuccessful bidders and applied against security deposits for the successful bidder. During the RFP process, six written addendums were issued. The detail required by the RFP, and the fact that six discrete leasing opportunities (four beach concessions, Beach Café, and Civic Center) were presented in one package, may have dissuaded prospective respondents.

Santa Monica resident participation: Of the six RFPs, only the combined RFP for the Beach Concessions, Beach Café, and Civic Auditorium failed to attract any applicants who resided in Santa Monica. (Though not a resident, the successful licensee is a Santa Monica business operator.) The RFPs for the Promenade North Pavilion, Promenade South Pavilion, and Library Café generated responses from eight, four, and six Santa Monica residents, respectively. For the 250 SMP 2005 recruitment, one of the two respondents to the RFP was a Santa Monica resident while seven of the nine respondents to the 250 SMP 2007 recruitment were from Santa Monica.

Public Oversight: The level of involvement of public oversight in recommending licenses and leases varies by geographic area. Licenses and leases not subject to Council-approved leasing guidelines are submitted to the City Council for approval. Licenses

and leases subject to the Pier Leasing Guidelines must be recommended by the PRC Board of Directors before the City Manager may approve the agreement. Licenses and leases within the Bayside District that conform to Council-adopted Leasing Guidelines (lease term of no more than five-years with one five-year option) are evaluated by staff from the City and Bayside District Corporation, presented to the Bayside District Land and Assets Committee and Board of Directors before being forwarded to the City Manager for execution.

Summary

Of the six RFPs examined, it is clear that, whether or not bonus points or ratings were assigned for local preference, the net result of the committee processes has been a tendency to recommend local, independent and other small businesses. In the most recent cases, RFP processes have been conducted in a manner that seeks out qualified and experienced operators while honoring preferences for local, independent operators. To ensure that all RFPs follow best practice and encourage local participation, the following will be incorporated into administrative guidelines:

- Advertising Locations: Ensure that notice of the opportunity is posted on the City's web page, in the local print and/or online newspapers, and, as appropriate, through outreach to established business organizations.
- Advertising Time: Ensure that the advertising period and amount of time available to respond from initial publication date is commensurate with the amount of information that is required in the RFP.

- Pre-Bid Conferences: Encourage staff to arrange for pre-bid conferences with prospective bidders to answer questions and provide clarification, and provide a method for distribution of addendums as questions are answered during the RFP process.
- Pre-Qualification Process: Where advisable due to the complexity of the project and the high cost to applicants to prepare a response to an RFP, establish a process that first seeks to narrow the field of qualified applicants, and then seeks more detailed proposals from that limited group.
- Proposal Submittal Fees: Require RFP fees only when the cost of dissemination of the RFP is costly to the City (e.g. the RFP includes cost of full size plans, etc.)
- Minimum Requirements: Encourage RFPs to set levels of experience and requirements for financial resources to be consistent with the needs of the project.
- Complexity of RFPs: Recommend that separate RFPs be issued for individual locations.
- Issuance of Addendums: Ensure a process to notify all potential respondents of updates and/or clarifications to the RFP process prior to bids being due.
- Term: The term of the agreement should be commensurate with the amount of capital investment.