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Title: Authorize and direct the City Manager to execute an Exclusive Negotiating Agreement (ENA) with Ruby's Hospitality Group, LLC for 21 Main Street at the Huntington Beach Pier

Attachments: 1. Att#1 21 Main Street RFQ, 2. Att#2 Memorandum by NDC, 3. Sup Com 9-3-21, 4. Sup Com 9-7-21

Date	Ver.	Action By	Action	Result
9/7/2021	1	City Council/Public Financing Authority	approved as amended	Pass

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Oliver Chi, City Manager

PREPARED BY: Ursula Luna-Reynosa, Director of Community Development

Subject:

Authorize and direct the City Manager to execute an Exclusive Negotiating Agreement (ENA) with Ruby's Hospitality Group, LLC for 21 Main Street at the Huntington Beach Pier

Statement of Issue:

The City Council is requested to authorize and direct the City Manager to execute an Exclusive Negotiating Agreement (ENA) with Ruby's Hospitality Group, LLC (Ruby's), in a form approved by the City Attorney, for a concession building located at 21 Main Street on the Huntington Beach Pier. The purpose of the ENA is to establish duties and obligations related to the negotiation of a lease agreement for the site.

Financial Impact:

There is no financial impact associated with this request. If a new lease is executed with Ruby's, staff will return to City Council for approval, which will include the rental rate and the projected lease revenues that would be deposited into the General Fund (1000100.43095) Beach Concessions.

Recommended Action:

Authorize and direct the City Manager to execute an Exclusive Negotiating Agreement (ENA) with Ruby's Hospitality Group, LLC, in a form approved by the City Attorney, to negotiate the terms of a lease agreement for 21 Main Street.

Alternative Action(s):

Do not approve the recommended action and direct staff to enter into an ENA with either Let's Go

Fishing & Surf City Snack Bar LLC (current lessee) or Surf City Partners, LLC, which are the remaining two responsive and qualified concessionaires that have submitted a proposal to lease 21 Main Street.

Analysis:

Background

The Huntington Beach Pier is one of the most recognizable landmarks on the west coast and serves as an attractive destination for visitors and locals. The Pier also features an estimated 800 square foot concession building located at 21 Main Street and has been in operation since 2009. The site is also in the Downtown Specific Plan (DTSP) and Coastal Zone.

Currently, the concession is operated by Let's Go Fishing & Surf City Snack Bar LLC (dba Let's Go Fishing), which offers fishing supplies, snacks, and souvenirs. Let's Go Fishing initially entered into a five-year lease agreement with the City on November 16, 2009. The lease also included a five-year extension ending on November 2019, which has been exercised by the tenant.

In anticipation of the lease expiring at that time, the City released a Request for Proposals (RFP) to identify a qualified and responsive operator in April 2019. The City Council authorized a 6-month lease agreement with Let's Go Fishing in November 2019, followed by a month-to-month term. Due to the stressors caused by the COVID-19 pandemic, the City also granted a 90-day extension in June 2020. Under this extended lease agreement, Let's Go Fishing's current base rent is \$950/month or 10.5% of gross receipts, whichever is higher. Lease payments are currently in excess of \$50,000 per year.

RFQ Results

On May 26, 2021, the City released a Request for Qualifications (RFQ) to solicit qualifications from potential concessionaires with a proven track record of operating a successful business of similar nature and scale. Additionally, respondents were asked to demonstrate their financial capacity and articulate a vision to enhance the pier experience for visitors. Submittal requirements included a cover letter, tax returns, income statement and balance sheet, audited financial statements, a description of the proposed use of the property, and biographical information of the principals. The City received submittals from the following four entities:

- Let's Go Fishing & Surf City Snack Bar LLC (current lessee)
- Ruby's Hospitality Group, LLC
- Surf City Partners, LLC
- Armijo Enterprises

Staff and the National Development Council (NDC), the City's independent economic advisor, conducted a preliminary review of the proposals. Armijo Enterprises was disqualified due to lack of financial capacity and failure to submit current and historical financial information. The remaining three entities moved onto the second round of review and submitted additional information, which included a pro forma, a description of any proposed improvements to the property, and a construction timeline and costs. Below is a summary of the proposals received.

- Let's Go Fishing & Surf City Snack Bar LLC - Marian Johnson is the sole member of this LLC, which has been operating at the concessionaire site since 2009. Current offerings include pre-packaged foods, ice cream, chips and other beach related merchandise, in addition to bait and tackle items. Ms. Johnson expressed interest in growing her business by creating additional revenue streams through the sale of hot foods (pizza, nachos, tacos and hot dogs), ice cream and Icee drinks; the provision of a coffee bar with pastries, bagels and muffins; and expanded offerings of pole rentals, pier fishing classes and fishing-themed birthday parties/events. A budget of \$28,500 was proposed for upgrading and remodeling the inside and outside of the building with an approximate timeline of 12-17 weeks to complete the improvements. Projected sales for the first three years are estimated at \$435,000-\$635,000 based on 100-110 sales per day at an average of \$12-16 per sale and assumes 15% growth per year with a net profit margin of 13-20% (not inclusive of the owner's salary).
- Ruby's Hospitality Group, LLC - In 2018, Ruby's Diner entered into a Chapter 11 bankruptcy process to reorganize its obligations and ownership. In November 2020, Casbure Management, LLC acquired the master franchise rights and formed Ruby's Hospitality Group, LLC. The principal owners include: Casbure Management, LLC (affiliate of West 5th Street Partners); Todd Spector, an individual; Eric Kurtzman, an individual; and Joe Micatrotto, an individual. The proposed concept from the new owners of the Ruby's brand includes constructing an adapted version of the classic Ruby's Diner that utilizes a walk-up window for guest service and a modified menu to streamline operations and conform to existing space limitations. The projected budget for improvements is approximately \$520,000 with plans to open within 12-14 weeks of receiving permits. Projected sales for the first three years range from \$1.1 - \$1.4 million with a 4-9% net profit margin. Proposed rent includes a base rent figure of \$90,000 annually with percentage rent to be determined but preference would be for a long-term, flat rent structure. The owners would pay the cost of all improvements and guarantee the lease.
- Surf City Partners, LLC - This local team with hospitality and franchise experience includes Jeff Bergsma (Design/Construction/Maintenance), Keith Bohr (Government Approvals), Paul Motenko (Restaurant Food and Beverage/Operational Systems), and Sharon and Adam Go (Restaurant Systems/Recruitment/Training). The concept is a "locals" eatery named Huntington's which would offer high quality comfort food and beverages (fine wines, locally crafted beers and libations), outdoor dining, surf line views, and occasional live music. The eatery would be open for breakfast, lunch and dinner with an estimated check average of \$22.62, 90-minute table turns, a 130 person occupancy (49 inside & 81 patio), and 340 days of operation. Additionally, there would be two mobile retail carts for fishing pole rentals, the sale of bait and tackle, and the sale of coffee, hot chocolate and bottled water. The projected budget for improvements is \$532,000 with a project timeline of approximately seven months (four months for permit approval process and three months for construction) with the goal of opening by May 2022. Projected sales for year one are \$1.5 million with an increase of 66% in year two (\$2.5 million) and another increase of 10% in year three (\$2.75 million) with a 5-8% net profit margin. Proposed annual base rent is \$180,000 which is 7% of sales based on the year two revenue assumption. Preliminarily, the cost of improvements is proposed to be financed using a one million dollar loan commitment with a 10-

year term at 5% interest.

Assessment of Qualifications

Staff and NDC performed an analysis (Exhibit 1) of the submitted proposals and on August 11, 2021, a summary of the top three finalists was presented to the City's Economic Development Committee (EDC). While all three respondents offered compelling visions and demonstrated experience operating successful businesses, the feasibility and viability of the concepts varied greatly with respect to their degrees of risk for failure. After careful consideration of each proposal, including a review against industry standards and entitlement requirements, the EDC recommended Ruby's for the concession space.

Ruby's desire to revitalize the brand and relaunch this iconic burger chain with a fresh take offers the return of a beloved, community and family-oriented amenity that has strong brand recognition at the Huntington Beach pier. Although the new ownership entity was recently formed, the principals have extensive experience and strong financial assets, which depict a high-level of competency to implement a successful business operation. Additionally, the lease revenue proposed is almost double the existing rent, and the site will be enhanced without triggering major entitlements. Ruby's was a favorite for its location, prices and retro-style, and its reopening in close proximity to its original location will provide locals and visitors with a memorable and nostalgic pier experience.

Let's Go Fishing offers the lowest risk to the City and is a profitable, established and successful business with a proven record. The proposal is similar to the products and services currently offered with comparable annual revenues and minor improvements to the building. If there is desire to maintain the status quo with a concessionaire that sells fishing supplies and convenience store items, the City Council could alternatively select Let's Go Fishing.

Surf City Partners offers the highest proposed revenue potential by completely reimagining the site. This proposal is also the most ambitious with required entitlement approvals (i.e., coastal commission, parking, outdoor dining for 81 seats, ABC license for alcohol sales) given the intensification of the use and scope of improvements to the property. Upon review, the construction timeline and revenue projections appear aggressive with revenue highly dependent on sales during the summer months and 40% of sales derived from alcohol (typical restaurant 20-30%). Additionally, because improvements are anticipated to be funded using debt, this proposal is riskier than the other two finalists should actual revenue be lower than anticipated. However, if there is a desire to create a unique dining establishment on the Pier, the City Council could alternatively select Surf City Partners.

Exclusive Negotiating Agreement

Given the EDC's consideration of each proposal and its recommendation of Ruby's, staff is seeking Council authorization and direction for the City Manager to execute an ENA with Ruby's for 180 days to negotiate the terms of a lease agreement, establish duties and obligations between the parties, and conduct due diligence. Approval of an ENA does not obligate the City to enter into a lease agreement. A lease of the site will require separate City Council approval. An ENA will provide an opportunity to analyze the feasibility of pursuing the project while addressing various issues related to the change of use and proposed remodel. Such lease terms and obligations include the following:

- Use, Term, Rent, Minimum Days/Hours of Operation, Maintenance, etc.

- Design of Building Plans
- Approvals including a Conditional Use Permit from the Zoning Administrator, Review by the Design Review Board for the building's design, colors, signage and materials, a Coastal Development Permit processed and approved by the Coastal Commission, and any applicable requirements related to outdoor dining, parking, and outdoor sales
- Establishment of a Schedule of Performance and Entitlement Milestones

Additionally, this ENA period will allow the current tenant, Let's Go Fishing, to continue its lease and operations while Ruby's obtains all necessary permits rather than leaving the concession vacant during this period.

Environmental Status:

Pursuant to CEQA Guidelines Section 15378(b)(5), organizational or administrative activities of governments that will not result in direct or indirect physical changes to the environment, do not constitute a project. If negotiations are successful, a lease agreement will be brought forward for City Council consideration and an environmental assessment will be conducted at that time.

Strategic Plan Goal:

Economic Development & Housing

Attachment(s):

1. Request for Qualifications
2. Memorandum by NDC