



# City of Huntington Beach

**File #:** 19-766

**MEETING DATE:** 7/15/2019

## REQUEST FOR CITY COUNCIL ACTION

**SUBMITTED TO:** Honorable Mayor and City Council Members

**SUBMITTED BY:** Dave Kiff, Interim City Manager

**PREPARED BY:** Kellee Fritzal, Deputy Director of Economic Development

**Subject:**

**Approve a Ten-Year Lease Agreement with Kathy May's Restaurant in Huntington Central Park located at 6622 Lakeview Drive**

**Statement of Issue:**

The City Council is asked to approve a ten-year lease with Kathy May's Restaurant, Inc. for the operation of a restaurant/food concession in Huntington Central Park. The Lease is an extension of the existing lease and allows for on-site service of beer and wine.

**Financial Impact:**

No fiscal impact.

**Recommended Action:**

- A) Approve the "Lease Agreement between the City of Huntington Beach and Kathy May's Restaurant, Inc.", for the restaurant building located 6622 Lakeview Drive in Huntington Beach; and,
- B) Authorize the Mayor and City Clerk to execute the Lease Agreement on behalf of the City.

**Alternative Action(s):**

Do not approve the Lease Agreement and direct staff accordingly.

**Analysis:**

On August 15, 2011, the City Council approved a 10-year lease with Kathy May's Restaurant Inc., to operate a family style restaurant located on the west side of Central Park at 6622 Lakeside Drive. Kathy May invested approximately \$100,000 in tenant improvements to rehabilitate and upgrade the facility, including bringing it into compliance with the American's with Disabilities Act.

On January 16, 2018, a Councilmember Item was introduced by Councilmember Brenden directing staff to investigate code amendments to allow the sale of beer and wine at restaurants with full table service located in the OS-PR Zone, primarily Central Park. The Planning Commission conducted a public hearing to consider the sale of beer and wine at restaurants. The Planning Commission approved Zoning Text Amendment ("ZTA") No. 18-001 and forward it to the City Council for approval. On May 7, 2018, the City Council approved Ordinance

No. 4156 approving ZTA No. 18-001, thereby amending Section 213.06 of the Huntington Beach Zoning and Subdivision Ordinance (Attachment No. 1) with conditions. The conditions consist of no packaged sales of alcohol and increased preventative security measures consisting of: working alarm system for the facility, functioning video surveillance, and motion detection lighting.

At the beginning of 2019, due to the death of Kathy May, her daughters assumed operations and approached staff to finalize the application to sell beer and wine as part of their dining menu at the restaurant and requested an extension of the lease for building improvements. On May 1, 2019, the Zoning Administrator approved a Conditional Use Permit 19-006 ("CUP"), subject to issuance of a Type 41 License by the State of California Alcohol Beverage Control Department ("ABC") and Conditions of Approval (Attachment No. 2). A complete list of the Conditions of Approval are found in Attachment No. 3, with key conditions outlined below:

- Daily Hours of Operation: Limited to 7:00 am - 10:00 pm (dining room & outdoor patio)
- Food service until at least one hour prior to scheduled closing time
- Sale of alcoholic beverages for consumption off-site is prohibited
- No reduced prices or promotions of alcoholic beverages after 7:00 pm
- No games/contests involving consumption of alcoholic beverages
- Employees shall complete Responsible Beverage Service training and certification by the ABC
- No live entertainment, unless an Entertainment Permit is issued by HBPD

A new draft lease agreement ("Lease") has been prepared to incorporate the Conditions of Approval made under the CUP as approved by the Zoning Administrator and to provide an extension to July 2029. Kathy May's Restaurant Inc. is governed by April Diaz (President) and Dawn Carrion (Secretary) and they have been operating the restaurant.

The terms of the proposed lease are as follows:

Percentage Rent Sales from July 2019 to July 2024 based on the following thresholds:

Annual Gross Sales	Percentage of Gross Sales
\$0--\$100,000	7.5%
\$100,000--\$150,000	9.5%
\$150,000 and over	11.5%

Percentage Rent Sales from July 2024 to July 2029 based on the following thresholds:

Annual Gross Sales	Percentage of Gross Sales
\$0--\$100,000	8.0%
\$100,000--\$150,000	10.0%
\$150,000 and over	11.5%

In those months where the Percentage of Gross Sales does not exceed \$1,875, a minimum base rent of

\$1,875/month will be billed. The term of the Lease will be for ten (10) years upon approval by the City Council. The Economic Development Committee recommended approval of the Lease on December 19, 2018.

**Environmental Status:**

Not applicable

**Strategic Plan Goal:**

Strengthen long-term financial and economic sustainability

**Attachment(s):**

1. Ordinance No. 4156
2. Zoning Administrator May 1, 2019 Meeting Minutes
3. CUP No.19-006 Conditions of Approval
4. Lease Agreement between the City of Huntington Beach and Kathy May's Restaurant, Inc.