

SANTA MONICA PIER LEASING GUIDELINES

These Santa Monica Pier Leasing Guidelines (“Guidelines”) provide the framework for fair and consistent leasing and licensing of City-owned property on the Santa Monica Pier. The Guidelines provide parameters and general policy on mix of uses, standards and terms, and tenant recruitment and selection. They reflect the general intent and goals of the City of Santa Monica (“City”) at the time they were approved and do not convey any right upon anyone, or impose any obligation on the City. The City may from time-to-time change these Guidelines or depart from these Guidelines without liability to anyone.

1. INTRODUCTION

1.1. Background

The Santa Monica Pier began in 1909 with the construction of the Municipal Pier – the straight portion that begins at the base of the bridge from Ocean Avenue and continues for more than 1,500 feet over the beach and Santa Monica Bay. Santa Monica Pier’s ability to attract large crowds impressed Charles Looff, an amusement park pioneer who had built Coney Island’s first carousel in New York. In 1916, after negotiations with the City of Santa Monica, Looff constructed his “Pleasure Pier” alongside the Municipal Pier (now known as the Newcomb Pier). The Pleasure Pier featured the landmark Looff Hippodrome building, which now is listed on the National Register of Historic Places and houses an operating vintage wooden merry-go-round.

Today, the Santa Monica Pier (“Pier”) is known as one of the region’s premier recreational and entertainment destinations, attracting over six million visitors annually. The Pier offers spectacular ocean vistas, year round events and attractions, and is home to a changing collection of restaurants, shops, activities and experiences.

1.2. Unique Character of Pier and Pier Environment

The Santa Monica Pier has been an icon for both the local community and Southern California for over a century. Over this time it has provided a broad variety of entertainment and experiences that directly relate to its beach and ocean setting. These activities and services are predominately specific to the Pier's on-going "microculture", history and surrounding community rather than a replication of things at other piers and places. The maintenance of the Pier's own "personality" is a core value of the Santa Monica community and central to the recruitment and selection of tenants and licensees.

2. LEASING GOALS AND OBJECTIVES

The Pier is a valuable historic resource of the City to be developed, used and preserved as a public resource for the enjoyment by the general public. The commercial leasing and licensing program on the Pier is to be managed for the benefit of the general public and in a manner consistent with the following goals and objectives:

- I. Promote and maintain the compatible uses of City-owned property available for lease and license located on the Pier in a manner supporting an attractive, safe and accessible environment for visitors and the residential community;
- II. Provide for a diversity of business, entertainment, event, educational, and cultural activities as well as active and passive recreational opportunities on the Pier;
- III. Promote quality and value of goods, food and services provided by the commercial operators on the Pier;
- IV. Establish pricing of leasehold and license occupancies that reflects fair market value to help
- V. Assure access to and use of City-owned properties by the general public through a leasing and licensing program that promotes the orderly and equitable management of tenancies and licenses;

- VI. Preserve and promote the unique, eclectic and community recreational character of the Pier;
- VII. Preserve and build on the historic elements and character of the Pier while ensuring its relevance and vitality to current and future generations;
- VIII. Achieve fiscal, social and environmental sustainability;
- IX. Enhance access and encourage both local and distant visitors to visit and enjoy the Pier;
- X. Harmonize with the surrounding beach and downtown community;
- XI. Take an incremental but continuous approach to change to advance commercial, cultural and civic opportunities on the pier; and
- XII. Seek a mix of uses and tenants that will contribute to the animation of the Pier.

3. MANAGEMENT STRUCTURE

Leasing and licensing on the Pier is the responsibility of the City of Santa Monica through its Office of Pier Management (“OPM”) in coordination with the City’s Economic Development Division. OPM also oversees Pier maintenance and operations. Pier events, filming and marketing are managed by the Non-Profit Santa Monica Pier Corporation (“SMPC”) in accordance with Event and Marketing Guidelines developed by the SMPC and subject to Council approval.

4. VISION FOR THE PIER AND GUIDING PRINCIPLES

4.1. Vision Statement

A Santa Monica Pier that provides an historic platform and a legacy of colorful visitor experiences to showcase contemporary events; a community asset that attracts, welcomes and entertains local, regional, national and international visitors of all incomes, abilities and interests; a landmark that offers an enticing and changing array of site-appropriate active and passive experiences and attractions.

4.2. Pier Guiding Principles

- I. The Pier will be a signature attraction of the City of Santa Monica, known and recognized world-wide and enjoying a broad base of local community support.
- II. The Pier will be an easily accessible and visually prominent destination within the City.
- III. The Pier will provide enticing year-round experiences and attractions for visitors.
- IV. The Pier will attract and engage visitors of all ages and incomes.
- V. The historic fabric and character, as well as the environmental sustainability and structural integrity of the Pier will be documented, celebrated, maintained and improved.
- VI. Pier programming will include both traditional and cutting edge entertainment, cultural, athletic and educational experiences.
- VII. Promotions, sponsorships and private and public revenue-producing events, will largely off-set the cost of popular and free public programming.

5. SUB AREAS AND USES

5.1. Areas

The Pier is approximately 9 acres in size and consists of two adjoining piers:

- I. **Municipal Pier.** The Municipal Pier is the primary walkway of the Pier. It is approximately 2.5 acres in size and 1,500 feet in length. This public strolling corridor provides the main access to restaurants, shops, amusement (e.g. carousel, Pacific Park) and recreation (fishing, walking, viewing) areas, vending carts and performers.
- II. **Newcomb Pier.** Located south of and adjacent to the Municipal Pier, the Newcomb Pier (also known as the Pleasure Pier) is approximately 6.6 acres, of which 2.2 acres is currently used for public parking and special event space. Most merchants, facilities, and events are on the Newcomb Pier while vending carts, kiosks and fishing activities are primarily on the Municipal Pier.

5.2. Commercial and Public Areas

The Pier presently has approximately 130,000 square feet of leasable commercial space comprised of buildings, kiosks, carts and deck area. The current Pier tenant mix is approximately 70 percent amusement, 25 percent dining, four percent educational and one percent retail.

Public facilities and service areas on the Pier include the Carousel building which houses City and SMPC offices; a Harbor Guards station; a Police Sub-Station; a Pier Maintenance workshop; and a second floor public observation deck. In addition there are central and west end public restroom facilities, a central trash & recycling shed, and a 270 space public parking lot.

The “Santa Monica Pier Development Program” approved by Council on February 9, 1988, supported a development program that consisted of approximately 150,000 square feet of commercial area. A new planning effort under development by the City with the assistance of the SMPC, will explore access enhancements, potential expansion of existing activities, and new commercial and civic opportunities. This enhancement effort, and future efforts, may alter the overall mix of activities and uses on the Pier over time to reflect the needs of the Pier and public and changing market conditions.

6. GENERAL LEASING STANDARDS

Leases and licenses shall be consistent with the Pier Leasing Goals and Objectives.

I. The Santa Monica Pier is public property; therefore all leases and licenses will be subject to an open and competitive public process.

II. Lease renewals will not be automatically offered to tenants. As vacancies arise either by lease expiration or earlier termination, recruitment for occupancy will be conducted in accordance with the Leasing Guidelines.

III. Preferred Uses include, but are not limited to, a range of entertainment and commercial products and services that will appeal to and serve both the residential community and area visitors. The City may change uses as leases expire in order to attract a tenant mix consistent with the Guideline’s goals and objectives.

IV. In order to promote merchant diversity on the Pier the award of multiple leaseholds and/or licenses to an individual tenant, licensee or operator is discouraged but may be allowed subject to conditions provided under Section 7.5.

V. All prospective tenants must provide evidence of economic viability and appropriateness to the Pier of their proposed uses and business plan, as well as their capacity and ability to develop and maintain their operation.

VI. Tenants and licensees will be expected to provide quality, visitor- supporting services or activities throughout the term of their lease or license, including sustained high levels of maintenance and cleanliness. Leases and Licenses will contain performance standards to ensure on-going quality and service. Failure to maintain performance standards will be considered a material breach and subject the lease or license to termination.

VII. Tenants and licensees are expected to be active members of the Pier community, participating in its operational life and working together with the City and other tenants to enhance the Pier visitor experience.

VIII. Assignment or subletting of leases is prohibited without the written consent of the Landlord. Landlord's consent will be subject to express standards and conditions set forth in the lease. Assignment or subletting of licenses is prohibited without exception.

IX. Operation and improvements to lease and license areas are subject to the City's standard regulatory review and approval process.

7. MINIMUM/BASIC LEASE TERMS AND CONDITIONS

7.1. Diversity & Permitted Uses

The City will seek operators who offer creative, imaginative and unique merchandise, food options and activities that are thematically compatible with the Pier yet not overly duplicative of the products and services already offered on the Pier.

In order to maintain an appropriate tenant mix consisting of distinct and diverse

merchandise, food and services the City will endeavor to limit the number of merchants who carry the same or similar types of offerings. A 'Permitted Use' clause shall be included in every lease and license to describe the type of business that will be operated within the leased premises or license area. The Permitted Use description should clearly describe the type of business the tenant or licensee intends to operate and the merchandise, food or service the tenant intends to offer for sale.

The purpose of the Permitted Use clause is to regulate the duplication of merchandise or services; however, it does not grant any tenant or licensee an exclusive right to sell any item or service. Exclusivity rights shall not be granted to any merchant on the Pier.

7.2. Term

Rental lease terms for commercial space on the Pier shall be negotiated based on the level of capital investment, use, size of the space (leases for larger footprints are normally for longer terms) and complementary character of the operation with the Pier Leasing Goals and Objectives. These factors also will be balanced against the City's policy of ensuring that public sites periodically do become available for a public competitive process.

To maintain the vitality of the Pier the City needs to insure its ability to address the mix of uses and activities on the Pier over time. Therefore, it needs to have a variety of lease and license timeframes and not have the majority of licenses or leases with very long terms or the majority of leases ending simultaneously-- thus limiting the City's ability to deal with evolutionary changes in Pier visitor needs.

7.2.1. Recommended Terms for Leases and Licenses

I. Portable Vending Carts

The recommended term for vending cart licenses is from 6 months to 1 year.

These licenses should be subject regularly to a public process to accommodate uses that meet contemporary Pier needs and to allow frequent opportunities for businesses interested in operating on the Pier.

II. Fixed Location Kiosks

The recommended term for fixed location kiosk licenses and concessions is

from 3 years to 5 years.

III. Deck Space Rental

The recommended term for the commercial license of deck space is from 1 day to 2 years, depending upon use and circumstances.

IV. Viewers and Transmitters

The recommended term for license and concession of cameras, antennas, and coin-operated telescopes and binoculars range is from 1 to 5 years depending on use and circumstances.

V. Retail Shops, Restaurants, Amusements and Aquarium

The recommended terms of leases for retail shops, restaurant, attractions and t h e aquarium range from 5 years to 25 years -- inclusive of any option periods. Generally, terms of five years will be granted if there is no substantial new capital investment in structures, structural improvements or equipment. If a tenant is required to make substantial new capital investment in structures, structural improvements or equipment then terms of ten years to twenty-five years may be considered. Additional options to extend the term provided under Section 7.5, may be offered contingent upon the amortization and financial requirements of new investment and findings of benefit to the City.

VI. Leaseholds Subject to Development Agreements

Terms of leaseholds that are subject to a Development Agreement will be negotiated with the City of Santa Monica. A Development Agreement is a negotiated contract with the City that includes a developer's contribution of significant community benefits and requires review by the Planning Commission and the Landmarks Commission, and final approval by the City Council.

7.3. Rates

Rents, fees and charges on the Pier are expected to reflect fair market value.

Adjustments can be made to provide for diverse uses consistent with the Pier Leasing Goals and Objectives or significant offsetting capital investment that provides the Pier permanent benefits also consistent with the Goals and Objectives.

In addition to a base rent, the City may elect to require that a lease include a percentage rent provision, which can be differentiated by categories of sales. The City, as Landlord, shall have the right to audit tenant's financial records to ascertain that the gross sales figures reported by the tenant are accurate.

Leaseholds with preferred uses for research and public educational purposes (e.g. Santa Monica Pier Aquarium) may be maintained at other than fair market rental rates.

The City will seek to reasonably minimize its costs associated with these activities by participating in ancillary gross receipts from commercial activities at educational facilities.

7.4. Hours of Operation

The Santa Monica Pier is a public venue open 365 days per year 24 hours per day. Pier merchants will be encouraged to remain open for business with adjustments related to the time of year and type of business. Minimum business hours when all businesses are expected to be in operation, unless otherwise specified, shall be daily between the hours of 11 am and 9 pm. Tenants will not be required to operate on Christmas Day and Thanksgiving.

7.5. Modifications Based on Findings of Exceptional Community Benefit

Diversity of ownership in Section 6. IV and the length of term in Subsection 7.2.1. V may be modified if all four of the following findings can be made and documented:

I. The proposed project will provide an exceptional opportunity to fulfill a goal or objective of the Pier Guiding Principles and will enhance the unique character and the viability of the Pier.

II. The proposed project will require substantial capital investment and provide an

exceptional return opportunity to the City.

III. The proposed project will enhance the mix of uses on the Pier while still being consistent with the Pier's unique character.

IV. The proposed project will provide a significant enhancement to the visitor experience at the Pier.

7.6. Triple Net Lease

Unless otherwise specified, Tenant shall pay all property taxes and assessments (including Possessory Interest Tax), insurance, utilities and Common Area Maintenance Fees--as defined below--as well as any duly-enacted future assessment or fee that the City may elect to institute.

7.7. Common Area Maintenance Fees

As a condition of occupancy of a Pier building, Leasehold tenants shall pay a proportionate share of the City's Common Area Maintenance ("CAM") cost to manage, maintain and provide security to Santa Monica Pier. On January 1, 2000, the applied Common Area Maintenance cost was modified to provide for a fixed CAM payment with biennial increases of not less than three percent (3%) and no greater than six percent (6%) per annum. Currently the CAM fee is \$7.65 per square foot per year.

7.8. General Operational and Performance Standards

Tenants must maintain high quality and uniform standards of operation and service to sustain and increase demand for their business, maintain positive customer experience, and enhance the overall reputation of the Santa Monica Pier. In order to achieve the highest standards of operations the following standards may be incorporated into each lease and license:

I. Tenants are expected to staff and operate their businesses in a first-class and reputable manner, commensurate with transacting a high volume of business on the

Pier.

II. Periodically, Landlord or Tenant may engage a third party “mystery shopper” to visit and evaluate Pier businesses. Tenant will provide an action plan for improvement if so requested by the Landlord.

III. Tenants shall respond to Landlord’s written inquiries regarding any complaints or issues, including postings on social media sites related to Tenant’s operations. Tenant will provide an action plan for improvement if so requested by the Landlord.

IV. Food operations that receive a designation from the Los Angeles County Department of Health of less than an “A” more than three times during the term of the lease or license, except to the extent that any such rating is restored to an “A” within 30 days of receiving the lower grade, will be in default and breach of the lease/license. Landlord recognizes that third party action may require additional time to reinstate “A” rating and may request tenant to provide an action plan for improvement.

V. Any Lease extension option will be conditioned upon Tenant’s economic performance. For example, Tenants with a percentage rent clause should have reached rent levels requiring percentage rent payments to City for at least two of the four rental years immediately prior to the expiration of the lease.

VI. Landlord may establish an annual review process to be performed by Office of Pier Management Staff to evaluate key criteria utilizing a standardized rating scale.

VII. Each Lease or License may have additional operational and performance standards applicable to the particular Tenant’s operation.

7.9. Maintenance and Environmental Responsibilities

Lessees and Licensees shall be responsible for maintaining their facilities in attractive and safe condition, in compliance with applicable building codes and all applicable environmental laws, ordinances, regulations and standards. This includes all areas under their lease, the facades and exterior presentations, and appurtenance’s of their facility or operation.

8. CITY POLICY PROVISIONS

8.1. Labor Peace

The City owns the Pier and has a financial or proprietary interest in Pier businesses engaged in visitor-serving commercial activities. Some of these businesses are in industries that have a history of labor/management conflict. Risk of interruption of rental revenue and common area maintenance fees received by the City from Pier businesses would be minimized if such businesses were assured of labor peace. An appropriate labor peace provision would minimize the City's exposure to revenue interruption and disruption of public recreational enjoyment of the Pier.

Therefore, new or substantially amended agreements for leasehold operation shall provide that the tenant will not engage in practices that impede employees' ability to organize and contract with a labor organization for the purpose of collective bargaining. Such prohibited practices include harassment, intimidation, "captive audience" antiunion meetings or illegal terminations of workers in retaliation for organizing. A substantial amendment is defined as a change of use of the property, an increase in seating or square footage of more than 25%, or an extension of lease duration. Tenant engagement in prohibited practices shall constitute an event of default under the terms of lease. Affected leases would be those businesses having five or more full or part-time employees that engage in restaurant or visitor-serving entertainment activities such as arcades, amusement parks and nightclubs.

8.2. Sustainability

The City of Santa Monica is committed to meeting its existing needs without compromising the ability of future generations to meet their own needs. Therefore in order to conserve and enhance local resources, safeguard human health and the environment, maintain a healthy and diverse economy, and improve the livability and quality of life for all community members in Santa Monica, each new or substantially amended agreement for leasehold operation shall include provisions that require

sustainable practices including:

A. Carbon Foot Print Reduction. Tenant shall use best efforts to help meet City-wide carbon footprint reduction goals by minimizing unnecessary use of electricity and water, minimizing or eliminating use of hazardous or toxic materials, and minimizing single occupancy vehicle trips by facilitating employee use of alternative transportation modes such as carpools, buses, vanpools, and bicycles. A list of green business best practices is available at: www.sustainableworks.org

B. Healthy Food/Sustainable Food Provision. Tenant shall exercise best efforts to procure and promote healthy and sustainable food practices on the Premises. Approaches include utilizing locally and sustainably grown, organic foods from California; offering meatless menu options and food that has been minimally processed; and reducing food packaging waste. Tenant is expected to participate in recycling and composting programs offered by the City. Information on the City's Sustainable Food Commitment is available at: www.sustainablem.org/food.

C. Non-Recyclable Food Service Container Ban. Tenant shall comply with the City of Santa Monica Ordinance (S.M.C.C. 5.44) banning non-recyclable plastic disposable food service containers. Information on the Non-Recyclable Food Service Container Ban is available at: www.sustainablem.org/container.

D. Single Use Carryout Bag Ban. Tenant shall comply with the City of Santa Monica Ordinance (S.M.C.C. 5.45) banning the use of single-use plastic carry-out bags. Information on the Single-Use Carryout Bag Ban is available at: www.sustainablem.org/bag.

A. Forest Stewardship Council Approved Products. Tenant is expected to follow the recommendations of the Forest Stewardship Council recommended products list in procurement of supplies.

8.3. Landlord's Licensing Program

The Landlord and The Santa Monica Pier Corporation may engage in sponsorship programs applicable to all tenants on the Santa Monica Pier. Tenant shall agree to participate in and be subject to such sponsorship program(s) so long as the terms of

sponsor products, goods and/or services are at least as favorable to Tenant as the terms of agreements applicable to the same products, goods and/or services supplied to Tenant for use on the Premises at the time of Landlord's or Pier Corporation's request for Tenant participation--provided that such sponsorship program does not violate any contractual agreements entered into by Tenant.

8.4. City Policy on Doing Business with Arizona Firms

The Santa Monica City Council adopted Resolution No. 10479 (CCS) on May 25, 2010, which requires a review of all current and likely future agreements and contracts with Arizona-based businesses to examine the feasibility of acquiring such products and services elsewhere. Tenants and vendors who do not have headquarters in the State of Arizona and those who will not be working with Arizona-headquartered subcontractors to provide goods and/or services will take priority when considering available Pier leases and licenses.

9. DESIGN GUIDELINES

The Santa Monica Pier 1987 Design Guidelines remain the primary reference regarding structures on the Pier, encouraging a balanced respect for the historic architectural elements and unique character of Pier with the intent to advance the range of activities and services to enhance the visitor experience and success of Pier operations and businesses. All public and private structural modifications and other improvements proposed on the Pier will be subject to review for consistency with the Design Guidelines, without exception.

The City's Economic Development Division in its proprietary capacity as Landlord must review and approve in writing all proposed modifications before any regulatory action, including submission of applications to Planning or Building and Safety. The regulatory permit and entitlement process involves the City as regulator, not as Landlord. These are entirely separate roles and approval of one does not mean approval by the other.

10. TENANCY RELATIONSHIPS

All City-owned buildings and deck areas on Santa Monica Pier appropriate and suitable for leasing or licensing by the City to individual tenancies or licensees will be in accordance with agreements prepared by the City. Each tenant or licensee will be responsible for interior maintenance and repair and utility consumption at its sole expense, and the City generally will retain responsibility for maintenance and repair of roofs and exterior of City buildings, and of the Pier deck and substructure unless otherwise specified in the lease or license. Structures constructed by tenants are subject to interior and exterior maintenance and repair by the tenant at its sole expense. The City shall have a right to inspect all tenant improvements, including fixed assets that will revert to the City at the end of the lease term, for the purpose of determining maintenance and repair needs. If necessary, Tenant is responsible for making repairs to, or replacing, such fixed assets at its sole expense.

11. TENANT RECRUITMENT

All City-owned buildings and deck areas on Santa Monica Pier appropriate and suitable for leasing or licensing will be subject to a public procurement and solicitation process to identify prospective tenants and licensees whose financial and professional experience, and products and/or services are consistent with the Leasing Goals and Objectives set forth herein.

Prospective tenants will be sought by publicly noticing the availability of a leasing opportunity on the City’s web site and through other appropriate forms of communication designed to reach the intended audience. This may include printed and electronic advertisements in appropriate trade journals or newspapers; display banners on the property; and other forms of outreach to potential operators. In addition, the City may retain a qualified commercial real estate brokerage firm or listing agent to market the leasing opportunity, identify prospective tenants, and cooperate with other realtors.

All prospective tenants must submit a Lease or License Application to the City. Information contained in the Lease or License Application shall describe the proposed

use for the available space; provide information about the respondents' experience; provide references; describe in detail the financial capability of the respondent to perform; and set forth preliminary terms and conditions.

12. EVALUATIVE CRITERIA AND SELECTION

Leasing opportunities at the Pier are very limited. Therefore, each lease is vital in order to maintain a vibrant mix of uses and sustainable Pier business environment. This requires an extensive outreach effort and a thorough review and selection process.

The Pier Manager will appoint an evaluation panel to review all applications submitted to the City. The panel will include representatives from the Office of Pier Management; the Economic Development Division; the Pier Corporation; and other City staff and other organizations and consultants as appropriate.

The panel will review and evaluate applications based on uniform criteria that may include but are not limited to the following: (i) character, reputation, training, and experience of the prospective tenant or licensee; (ii) ability, capacity, and skill of the prospective tenant or licensee to perform; (iii) quality and price of the services or goods to be provided; (iv) uniqueness and compatibility of proposed product or service with the Santa Monica Pier, (v) financial capability; and (vi) length of tenure in an Exemplary Manner (see below) on the Pier.

The selection process will include additional bonus points for existing Pier tenants and licensees who are deemed to have operated in an Exemplary Manner. The term "Exemplary Manner" will mean and refer to those Pier tenant or licensees who meet all of the following criteria: Merchants that throughout the term of their lease or license have: (i) provided consumers with relevant and quality merchandise, food and activities, (ii) demonstrated a track record of good customer service, (iii) regularly updated and invested in their operation and premises; (iv) demonstrated increasing sales volume over time; (iv) have been productive and active members of the Pier Community; and (vi) complied with all lease or license provisions, as well as all applicable local, state and federal laws and regulations.

Proposers may be asked by the panel to participate in an oral interview in order to clarify or elaborate on their proposal and to demonstrate samples of products or services. The panel also may request verification of credit history and may contact references.

The evaluation panel will provide to the Pier Manager its analysis and recommendation of a preferred respondent or respondents, inclusive of appropriate bonus points. The panel's recommendation also may be to reject all responses, solicit additional information from one or more respondents, or to enter into exclusive lease or license negotiations with a preferred respondent.

13. LEASE APPROVALS & DELEGATION OF AUTHORITY

The City Manager has the authority to negotiate and execute leases and licenses with terms of three years or less for uses in accordance with this Leasing Guideline, and on the basis of written agreements prepared and approved as to form by the City Attorney. Leases and licenses for terms of occupancy greater than three years will be negotiated by the City Manager and approved by the City Council.

For Leases and licenses with terms greater than three years the Council may authorize staff to enter into a lease or license with the preferred respondent subject to specific terms and conditions, authorize entering into exclusive negotiations with a preferred respondent, reject the recommendation, or direct that additional information be solicited prior to making a determination.

The City Attorney will prepare and approve as to form all lease and license agreements for review and execution by the prospective tenant or licensee. The executed lease or license agreement will be submitted to the City Manager for review in terms of consistency with the Leasing Guidelines and Council authorization. If determined to be in accordance with the Leasing Guidelines and Council authorization the City Manager will execute the agreement.

14. PROTEST/APPEAL PROCESS

Applicants not selected as the preferred respondent by the evaluation panel will be informed by letter or email. Protestant may file a written protest with the City's Economic Development Manager no more than seven (7) calendar days following the notification. The written protest must set forth, in detail, all grounds for the protest, including without limitation all facts, supporting documentation, legal authorities and arguments in support of the grounds for the protest. All factual contentions must be supported by competent, admissible and credible evidence. Any matters not set forth in the written protest shall be deemed waived. Any protest not conforming to this procedure shall be rejected as invalid. The protest must include the name, address, and telephone number of the person representing the protesting party.

The Economic Development Manager shall review the merits and timeliness of the protest and issue a written decision to the Protestant within ten (10) calendar days of receipt of the protest.

The decision of the Economic Development Manager may be appealed to the City's Housing and Economic Development Director by filing a letter appeal within ten (10) calendar days of the date of the Economic Development Manager's decision. The letter of appeal shall set forth, in detail, all grounds for the appeal, including without limitation all facts, supporting documentation, legal authorities and arguments in support of the grounds for the appeal. All factual contentions must be supported by competent, admissible and credible evidence. Any matters not set forth in the letter of appeal shall be deemed waived. Any letter of appeal not conforming to this procedure shall be rejected as invalid.

The City's Housing and Economic Development Director shall review the merits and timeliness of the letter of appeal and issue a written decision to the Protestant within seven (7) calendar days of receipt of the letter of appeal. The decision of the Director is final.

Approved April 8, 2014