



CITY COUNCIL/ORANGE COUNTY FAIRGROUNDS AUTHORITY BOARD AGENDA REPORT

MEETING DATE: October 5, 2010 **ITEM NUMBER:** VIII.2.

SUBJECT: REHEARING REQUEST REGARDING PROPOSED LEASE WITH ORANGE COUNTY FAIR AND EVENT CENTER, L.P.

DATE: OCTOBER 1, 2010

FROM: CITY ATTORNEY/AUTHORITY ATTORNEY

PRESENTATION BY: KIMBERLY HALL BARLOW,
CITY ATTORNEY/AUTHORITY ATTORNEY

FOR FURTHER INFORMATION CONTACT: KIMBERLY HALL BARLOW, 714 754-5339

RECOMMENDATION:

Consider the rehearing request of Sandra Genis regarding the Board's adoption of a Resolution approving the draft lease subject to revisions authorized by the Board and completion of exhibits and minor revisions approved by the Authority Attorney and Executive Director.

BACKGROUND:

On September 7, 2010, the Authority Board considered a proposed lease with the OC Fair and Event Center, L.P., modified from the version of the lease approved on August 24th. At that meeting, a number of issues regarding the language of the proposed lease were discussed, and the Board approved the resolution with direction to staff to work out some language changes and clarifications. Those language changes have been made to address concerns of the community and board members as to the intent of the lease. A copy of the revised lease is attached hereto as Attachment 1. Sandra Genis, a member of the public, has requested that the Authority Board rehear the matter of approval of the lease. Ms. Genis' request contends that the lease was not complete in that it assertedly lacked information regarding licensing, naming rights and community activities. The request for rehearing also contends that the lease did not address the existing ENA and MOU between the Authority and Facilities Management West, and did not address the ability of the parties to bid on the property through the State's bidding process requiring bid submittals by September 30, 2010. A copy of Ms. Genis' rehearing request is attached as Attachment 2.

ANALYSIS:

The draft lease reflects the terms of the Memorandum of Understanding of June 18th, with additional deal points as negotiated by the parties, and approved by the Board. The issues which the Board collectively requested that staff address in the lease have

been addressed as shown in Attachment 1. With respect to the applicant's first claimed basis for rehearing, the lease considered and approved by the Board on September 7th did fully address licensing, naming rights and community activities. The Board requested clarifying language regarding one item, which has been incorporated into the revised lease (see Section 28.4). As to the requestor's second point, Section 25.4 of the lease makes it clear that the lease supercedes all prior agreements and negotiations, which would include the ENA and the MOU. Finally, the Board did not request, and staff did not believe there was any need to address the ability of the parties to bid on the property through the State's bidding process, which was independent of the negotiations between the Authority and the State and the Authority and OC Fair and Events Center, L.P.

FISCAL REVIEW:

No fiscal review is necessary for this rehearing request.

CONCLUSION:

Staff recommends that the Authority Board consider the rehearing request and consider whether to grant or deny it. .

KIMBERLY HALL BARLOW

CITY ATTORNEY/AUTHORITY
ATTORNEY

ALLAN R. ROEDER

CITY MANAGER/EXECUTIVE
DIRECTOR

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ATTACHMENTS 1 [Draft Lease \(10-1-10\)](#)
 2 [Rehearing Request](#)