



CITY COUNCIL AGENDA REPORT



DEPARTMENT: Administration

MEETING DATE: January 15, 2013

PREPARED BY: Laurie Lile, City Manager

AGENDA LOCATION: AR-2

TITLE: Family Festival Productions, Inc., Request for Waiver of Franchise Fees

OBJECTIVE: To consider a request from Family Festival Productions, Inc., that the City Council forgive all outstanding franchise fees incurred during 2012 and waive all franchise fees due in 2013 for production of the Monrovia Family Festival

BACKGROUND: Family Festival Productions, Inc. ("FFPI") has been the operator of the Monrovia Family Festival for the past 20 years. Today, the Family Festival has become one of the trademark activities in Old Town. Its certified farmers market and large selection of commercial vendors, food booths, children's rides and live entertainment attracts as many as 5,000 people each Friday. The Family Festival also has a positive spillover effect to Old Town shops and restaurants. Additionally, it generates revenue to the City's General Fund through the collection of franchise fees. Considering the benefits of the Family Festival and its importance to the community, on December 20, 2011, the City Council voted unanimously to approve a new three-year Exclusive Franchise Agreement between the City of Monrovia and Family Festival Productions, Inc., for the production of a weekly street faire in Old Town Monrovia ("the Agreement"). The remaining term of the Agreement expires on December 31, 2014, with an option by both the Contractor and the City to elect to extend the term through Dec. 31, 2016. While there is still a remaining three years of the Agreement, the Contractor has requested that the City Council forgive all outstanding franchise fees and the waive future franchise fees through December 31, 2014.

ANALYSIS: Within the Agreement is "Article 8, Franchise Fees." There is an exclusive franchise fee of \$425.00 per weekly street fair from March through December, and \$200.00 per weekly street fair event from January and February. In the event that a weekly street fair is cancelled due to either the City's direction or an uncontrollable circumstance, the City does not receive a franchise fee payment for that week. The Contractor is expected to make four franchise fee payments to the City each calendar year, totaling roughly \$18,600.00 each year. Failure to make any of these payments could result in a breach of contract per Article 10 of the Agreement.

Citing increasing insurance costs, a downturn in vendors and general financial hardship, the Contractor approached City staff in December requesting a waiver of an estimated \$37,200.00 in future franchise payments and forgiveness of \$16,575.00 worth of past-due franchise payments from 2012. In the past, leniency has been granted on payments. In 2009, the City Council voted to reduce the Contractor's weekly franchise payment from \$850.00 per show to \$425.00 for a six month period. Eventually, the \$425.00 was set as the franchise rate. Moving forward, the Contractor is asking the City Council consider further reducing the franchise rate through 2014 to \$0.

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FISCAL IMPACT: Forgiveness of past fees and the waiver of future fees would result in a total revenue loss of an estimated \$53,775.00. Franchise fees from the Family Festival generate nearly \$18,600.00 each year to the City. Forgiveness of all future franchise fees through the entire term of the contract would result in a total loss of \$37,200.00. Past payments due from 2012 is \$16,575.00.

OPTIONS: The following options are presented for consideration:

- 1) **Do not alter the contract. Work with the Contractor to collect any outstanding fees and continue to collect future franchise fees.** This decision may lead to recouping some of the money at the risk of forfeiting the Family Festival.
- 2) **Do not alter the contract or collect fees at this time but explore terminating the contract while researching alternative farmer's market operators.** This would allow the City to explore whether there are other more financially viable options.
- 3) **Waive the past due fees and elect to temporarily reduce the franchise fees through December 31, 2013. At the end of the calendar year, examine reinstating the franchise fees.** This decision may allow the Contractor to continue to operate while still providing the option that the City may eventually recoup money should the Contractor's financial situation improve.
- 4) **Waive past due fees and temporarily waive the franchise fees through 2013. At the end of the year, consider re-establishing franchise fees as set forth in the Agreement.** This would ensure that the Family Festival could continue operations with the prospect that the City may re-establish franchise fees in the future.
- 5) **Waive past dues and waive franchise fees through 2014.** This would ensure that the Family Festival could continue operations, though the City would not be able to recoup any past or future franchise fees.

RECOMMENDATION: Considering the benefits and longstanding history of the Friday Night Family Festival in our community, Staff is recommending that the City Council pursue Option 4 at this time.

CITY COUNCIL ACTION REQUIRED: If the City Council concurs, the appropriate action would be a motion to forgive all outstanding franchise fees and waive the 2013 franchise fees due by Family Festival Productions, Inc.