



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: February 5, 2019

Agenda Item 6H

Approvals:

City Manager [Signature]

Dept. Head [Signature]

Attorney [Signature]

Finance [Signature]

Department: Public Works
Prepared By: Tom Bonigut, Public Works Director

Subject: *APPROVAL OF AN ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT RELATED TO THE SAN CLEMENTE TROLLEY VEHICLE OPERATION.*

Fiscal Impact: None.

Summary: Staff requests the approval of an agreement to formally assign the existing San Clemente Trolley vehicle operation agreement from the current contractor Professional Parking to LAZ Parking California, LLC.

Discussion: The City has an existing agreement with Professional Parking to provide appropriately-licensed drivers to operate the San Clemente trolley vehicles. Professional Parking was recently acquired by LAZ Parking California, LLC ("LAZ"). As required by the existing agreement, Professional Parking has requested that the City formally assign the existing agreement to LAZ. LAZ will retain key management staff from Professional Parking for at least several years to ensure a seamless transition of service providers. Except for a new operator, none of the existing agreement terms will change. The City Attorney has reviewed and concurs with the attached Assignment, Assumption and Consent agreement.

Recommended

Action: STAFF RECOMMENDS THAT the City Council approve and authorize the Mayor to execute an Assignment, Assumption and Consent Agreement to formally approve assignment of the existing San Clemente Trolley vehicle operation agreement from Professional Parking to LAZ Parking California, LLC.

Attachment: Assignment agreement.

Notification: None.

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ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT

THIS ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT (this "Agreement") is made and entered into as of the 10th day of January, 2019 by **PROFESSIONAL PARKING** ("Assignor"), **LAZ PARKING CALIFORNIA, LLC** ("Assignee"), and The City of San Clemente, a municipal organization organized under the laws of the State of California, with its principal place of business at 910 Calle Negocio, San Clemente, CA 92673 ("City").

WHEREAS, Assignor and City entered into that certain Professional Services Agreement dated March 21, 2017, for the Summer Trolley Program (the "Agreement"); and

WHEREAS, Section 1.4 of the Agreement states: "Neither this Agreement nor any interest therein may be assigned by CONTRACTOR [Assignor], except upon written consent of CITY;" and

WHEREAS, Assignor is conveying to Assignee all of the Assignor's right, title, interest and estate in and to all of its assets, including the Agreement, pursuant to that certain Asset Purchase Agreement with an effective date of February 1, 2019, as amended from time to time, by and between Assignor, Ralph L. Caldin, Jr., and Assignee's parent company, LAZ Karp Associates, LLC (the "**Purchase Agreement**"); and

WHEREAS, Assignor desires to assign the Agreement and Assignee agrees to assume the obligations of Assignor pursuant to the Agreement;

NOW, THEREFORE, in consideration of the premises and their respective best interests, the parties agree as follows:

1. Assignor assigns to Assignee the rights and obligations of Assignor as provided in the Agreement.
2. Assignee accepts the assignment of the Agreements and agrees to assume and perform all covenants and obligations required of Assignor thereunder to the extent, but only to the extent, occurring or accruing from and after the date hereof. Assignee covenants and agrees to indemnify, save, defend and hold harmless Assignor from and against any and all loss, liability, claims, causes of action, demands, damages, expenses and costs including, but not limited to, reasonable attorneys' fees and expenses actually incurred existing in favor of or asserted by City under the Agreements, or any other person, and which arise out of or relate to causes of action occurring from and after the date hereof. Assignor hereby agrees to indemnify, save, defend and hold harmless Assignee from and against any and all loss, liability, claims, causes of action, demands, damages, expenses and costs including, but not limited to, reasonable attorneys' fees and expenses actually incurred existing in favor of or asserted by City under the Agreements, or any other person, and which arise out of or relate to causes of action occurring prior to the date hereof.
3. Per Section 1.4 of the Agreement, City hereby consents to the assignment by Assignor to Assignee pursuant to the terms hereof and acknowledges that from and after the date hereof, Assignee has assumed all of Assignor's obligations with regard to the Agreement.

4. Assignor and City do hereby represent and warrant to Assignee neither party is in default under the Agreement, nor does there exist any matter that, but for the passage of time, would constitute a default under the Agreement.

5. This Assignment may be executed in any number of counterpart copies which together shall constitute one and the same document; and a signed copy of this Assignment sent by a party by fax or email shall be effective and binding on the sending party as if it was an original signed copy of the document.

IN WITNESS WHEREOF, the undersigned have executed this Assignment, Assumption, and Consent Agreement to be effective as of the day and year first above written.

ASSIGNOR:
PROFESSIONAL PARKING

By: _____
Name: _____
Title: _____
Date: _____

ASSIGNEE:
LAZ PARKING CALIFORNIA,
LLC

By: _____
Name: _____
Title: _____
Date: _____

ATTEST:

CITY CLERK of the City of
San Clemente, California

Approved as to form:
BEST BEST & KRIEGER

City Attorney

CITY:
CITY OF SAN CLEMENTE

By: _____
Name: _____
Title: _____
Date: _____