



Executive Director's
Report to the

Board of Harbor Commissioners

DATE: FEBRUARY 22, 2012

FROM: HISTORIC SITE OFFICE (ARCHIVES)

SUBJECT: RESOLUTION NO. _____ APPROVE LICENSING AGREEMENT AND LICENSING FEE SCHEDULE FOR COMMERCIAL USE OF CITY OF LOS ANGELES HARBOR DEPARTMENT PHOTOGRAPHS

SUMMARY:

The City of Los Angeles Harbor Department (Harbor Department) asks the Board of Harbor Commissioners (Board) to approve the template form of the Licensing Agreement and Licensing Fee Schedule to allow the Harbor Department to license and charge licensing fees for commercial use of Harbor Department owned photographs. The Licensing Agreement contains terms and conditions of commercial use of Harbor Department photographs, and charges clients reasonable licensing fees according to the Licensing Fee Schedule, which was developed based upon benchmarking fee schedules of the City of Los Angeles and other public agencies.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the proposed template form of Licensing Agreement and Licensing Fee Schedule;
2. Direct the Board Secretary to transmit the proposed template form of Licensing Agreement and Licensing Fee Schedule to the City Council for its approval pursuant to Section 606 of the City Charter;
3. Upon approval by the City Council, authorize the Executive Director or her Designee to execute the Licensing Agreement with individual licensees in accordance with Harbor Department policy; and
4. Adopt Resolution No. _____.

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PHOTOGRAPHS

DISCUSSION:

Background – The Harbor Department Historic Site Office (Archives) has been engaged in an effort to digitize the Harbor Department’s historical photograph collection and make it available to the public online. In early 2011, it was brought to the attention of the Harbor Department senior management team that other City departments (Department of Water and Power and Los Angeles Public Library) employ photo use agreements and charge licensing fees for commercial use of their photograph collections which do not fall under the California Public Records Act Request (CPRA). As directed by senior management, Archives received guidance from the City Attorney’s Office to clarify the distinction between requests for personal use of photographs to be processed under the CPRA and requests for commercial use of photographs for which licensing agreements and licensing fees could be required. The Harbor Department’s proposed commercial use guidelines include licensing and fees for a one-time commercial publication or use (e.g. books, magazines, film, exhibits, seminars, advertising, etc.) and would require additional licensing and fees for repeat or additional use.

The City Attorney’s Office has drafted Los Angeles Harbor Department Photograph Order Form/Licensing Agreement (Transmittal 1) (Licensing Agreement) for use by the Harbor Department in licensing of the commercial use of its photograph collection. The Licensing Agreement is based upon the similar forms used by other agencies within the City of Los Angeles, such as the Los Angeles Department of Water and Power (LADWP). The proposed action to establish a licensing fee schedule and Licensing Agreement for commercial use of Harbor Department photographs does not modify the guidelines for processing of CPRA requests for personal, non-commercial use of photographs.

Fee Schedule Creation - Archives benchmarked data on fees being charged by other public and private research institutions, universities, libraries and government agencies, including other City of Los Angeles agencies, in order to determine a fair and appropriate fee schedule for commercial use. Based upon its benchmark review, Archives determined that the Harbor Department would adapt the fee schedule used by the LADWP as fair and appropriate for the Los Angeles Harbor Department Licensing Fees Schedule (Transmittal 2).

Licensing fees will range from \$25 to \$300 per image, per use, for up to 20 images. Fees will be collected by Harbor Department employees in the division processing the request before licensing agreements and digital images are handed over to the licensee. Checks made payable to Port of Los Angeles or Los Angeles Harbor Department will be delivered to the cashier’s office as received and will be deposited into the Harbor Revenue Fund using GL Code 49093. Licensing fees will help offset the

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cost of nonrevenue generating operations, such as Archives. The Executive Director of the Harbor Department or Designee may waive the licensing fee if the request is deemed to be in the best interest of the Harbor Department, or for public benefit.

Archives has created a procedure for carrying out a commercial photo request (Transmittal 4). Any commercial photo requests will be processed through the Archives Office.

ENVIRONMENTAL ASSESSMENT:

The proposed action is to approve a Licensing Fee Schedule and Licensing Agreement. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment effect.

FINANCIAL IMPACT:

Receipts of licensing fees under the proposed Board action will be deposited into Harbor Department Account 49093 (Photo Licensing & Commercial Use Fees). Based on requests for photos for commercial use in 2011, the estimated revenue is \$2,500 per year. Amount of requests and revenue may significantly increase once the collection is accessible online. Archives is currently budgeting \$2,000 per year for PastPerfect and PastPerfect-Online software, licensing, support and webhosting. PastPerfect database and PastPerfect-Online are currently maintained with staff on loan from Construction Division. To cover this staffing need in Fiscal Year 12/13 Archives has budgeted \$20,000 in outside services. One terabyte (1TB) has been allotted for storage of PastPerfect images on the Archives server. The 3,100 images currently in PastPerfect utilize 14GB of storage. It is estimated that 18,000 images will be added by the end of 2013 utilizing only 98GB of storage. At this rate of increase it should take 10 years to use the allotted 1TB of storage with a total storage capacity of 219,000 images. Although revenue from licensing fees is not expected to cover the cost of Archives digitization projects the proposed licensing fees are based upon what is considered fair by industry standards and not aimed at cost recovery efforts for digitization and preservation efforts.

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CITY ATTORNEY:

The Office of the City Attorney has prepared and approved Licensing Agreement as to form and legality.

TRANSMITTALS:

1. Los Angeles Harbor Department Photograph Order Form/Licensing Agreement
2. Los Angeles Harbor Department Licensing Fee Schedule
3. Los Angeles Harbor Department Historical Archives Research Request Form
4. Procedure for Carrying Out Commercial Photo Request

FIS Approval: ef (initials)

CA Approval: gme (initials)

APPROVED:


GERALDINE KNATZ, Ph.D.
Executive Director

GK/tf