



# staff report

---

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Jim DellaLonga, Director of Economic Development

SUBJECT: Consideration and Possible Action to Receive and File Lease Agreement File No. 712 with Patrick Pierre for lease of property at 16552 Bellflower Boulevard, identified as Kiosk B.

DATE: July 11, 2016

## **EXECUTIVE SUMMARY**

On July 1, 2016, the City entered into the above referenced License Agreement File No. 712 with Patrick Pierre. The purpose of this agreement is to allow Patrick Pierre to enter the City-owned property located at 16552 Bellflower Blvd. Kiosk B for purpose of operating Pierre Films, a personal videography services company.

## **RECOMMENDATION TO THE CITY COUNCIL**

- 1) Receive and File Grant Agreement File No. No. 712
- 2) Alternatively, discuss and take other action related to this item.

## **FISCAL IMPACT**

For the first six (6) full-calendar months of the Lease, Patrick Pierre shall be required to pay One Hundred Fifty Dollars (\$150.00). Starting with month seven (7) through month thirteen (13), Patrick Pierre will not be required to pay a license fee for use of the kiosk. Resuming at month fourteen (14), Patrick Pierre shall pay \$150.00 for the remaining eleven (11) months of the Lease.

## **DISCUSSION**

On April 25, 2016, City Council approved the new guidelines and incentives for the Kiosk Small Business Program to encourage entrepreneurs to submit an application and business proposal. During the submission period, a total of five proposals were received. Economic Development Department staff independently reviewed and scored each proposal. After scores were tallied, Pierre Films ranked in the top two of the proposals submitted. Patrick Pierre will consult with clients in Kiosk B to provide contract videography services for special events and will also provide mentorship to local students seeking a career in videography.

## **ATTACHMENT**

Agreement File No. 712..... 2

**LEASE AGREEMENT FILE NO. 712 BETWEEN THE  
CITY OF BELLFLOWER AND  
PATRICK PIERRE**

THIS LEASE is made and executed this 1 day of July, 2016, between CITY OF BELLFLOWER, a municipal corporation and general law city ("CITY"), and PATRICK PIERRE, owner and operator of Pierre Films ("LESSEE").

1. **RECITALS.** This Lease is made with reference to the following facts and objectives:

A. CITY is the owner of commercial real property identified below. CITY desires to lease the real property to LESSEE as part of the CITY's kiosk promotion.

B. LESSEE is a corporation that desires to lease the commercial real property from CITY pursuant to the terms and conditions outlined in this Lease.

2. **LEASE; DESCRIPTION OF PROPERTY.** CITY leases to LESSEE to use, on the terms and conditions of this Lease, portions of real property identified as Kiosk B ("Property"), which is incorporated by reference.

3. **RENT.** LESSEE agrees to pay to CITY as rental for the Property the sum of one hundred fifty dollars (\$150.00) each month, payable in advance on the first day of each month during the term. The rent must be paid according to the following schedule:

A. For the first month of the term of this Lease, and for each of the five months that follow, LESSEE must pay the CITY the full amount of rent as described above.

B. Commencing on the seventh month of the term of this Lease, and for each of the five months that follow, LESSEE need not pay any rent to the CITY.

C. Commencing on the thirteenth month of the term of this Lease (*i.e.*, the first month of the second year of the term of the Lease), and for each month that follows until the Lease is terminated, LESSEE must pay the CITY the full amount of rent as described above.

4. **TERM.** The initial term of this Lease is for two (2) years, commencing on the date of this Lease ("Initial Lease Term"). Provided that LESSEE is not in default in the performance of this Lease, upon the expiration of the Initial Lease Term, the term will continue as a month-to-month tenancy. The LESSEE may only terminate their Lease on the last day of any month and the CITY must receive a written notification of non-renewal at least 30 days prior to the last day of that month. If the LESSEE plans to leave on or after the first day of any month, they are responsible for that month's full rent.

5. **USE OF PROPERTY.** Subject to the limitations listed below, LESSEE may use the Property for the commercial purpose of meeting with clients to consult videography projects and sell video/photography/editing services. The Property may not be used for any other purpose. Operating hours are Monday through Saturday from 11:00 a.m – 8:00 p.m., Friday from 11:00 a.m – 7:00 p.m., Saturday 9:00 a.m. – 6:00 p.m. and all City sponsored special events days (as noted in application).

6. **UTILITIES; BELMONT COURT RESTROOM KEYS.**

A. LESSEE is responsible directly to the serving entities for all utilities required for its use of the Property. "Utilities" means electricity, gas, telephone services, trash, water, internet, and cable television.

B. CITY will provide annual, routine maintenance to the air conditioning (A/C) unit at the Property; however, any additional maintenance required for the unit will be paid by the LESSEE.

C. Except as stated in subsection B, LESSEE agrees to order, obtain, and pay for all utilities and service and installation charges in connection with the development and operation of the Property.

D. The LESSEE agrees to pay CITY a deposit of \$50 for Belmont Court Restroom keys. This amount is refundable upon termination of the Lease.

7. **TRASH AND GARBAGE.** LESSEE will provide and pay all costs for the complete and proper disposal and timely removal of all refuse resulting from its operations. LESSEE will provide and use appropriate covered receptacles for all refuse at the Property. Piling boxes, cartons, barrels or other similar items in view of a public area will not be permitted. LESSEE is responsible for the proper disposal of its refuse in such a manner as not to contaminate or restrict sewer lines.

8. **MAINTENANCE QUALITY.** CITY's designees may, at any reasonable time and without notice, enter the Property to determine if satisfactory maintenance is being performed. If the quality of maintenance is unreasonable, CITY will provide written notice to LESSEE which includes the specific nature of the complaint. Should LESSEE fail to improve and sustain quality maintenance within thirty (30) days of CITY's notice, CITY may enter upon the Property and perform such maintenance. LESSEE will promptly reimburse CITY for the cost of maintenance, plus ten percent (10%) for CITY's administrative overhead.

9. **HAZARDOUS WASTE.** CITY has not, nor, to CITY's knowledge, has any third party used, generated, stored, or disposed of, or permitted the use, generation, storage, or disposal of, any hazardous material (as defined below) on, under, or within the Property in violation of any law or regulation. LESSEE agrees that it will not use, generate, store, or dispose of any hazardous material (as defined below) on, under, or within the Property in violation of any law or regulation. LESSEE agrees to defend and indemnify CITY, as provided in this Lease, against any and all losses, liabilities, claims, and/or costs arising

from any breach by LESSEE of any warranty or agreement contained in this section. As used in this section, "hazardous material" means any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (including petroleum and asbestos).

10. **POSSESSORY INTEREST TAXES.** LESSEE is informed by CITY pursuant to Revenue & Taxation Code § 107.6 that its property interest in the Property may be subject to property taxation if created and that LESSEE may be subject to the payment of property taxes levied on its interest. LESSEE may not deduct such amount from payments to CITY.

11. **QUIET ENJOYMENT.** CITY agrees that LESSEE, upon making payments to be paid by LESSEE under the terms of this Agreement and upon observing and keeping the agreements and each of the covenants of this Lease will lawfully and quietly hold, occupy, and enjoy the Property during the term of this Lease.

12. **CITY'S LIMITED WARRANTY.** CITY warrants that it is under no disability, restriction or prohibition, whether contractual or otherwise, with respect to its right to execute this agreement and perform its terms and conditions and has the legal right, power and authority to grant all of the rights granted herein.

13. **TERMINATION.** This Lease may be terminated as follows:

- A. At the expiration of the term;
- B. Upon mutual written agreement between the parties;
- C. If either party gives thirty (30) days' written notice to the other of its intent to terminate this Lease;
- D. Upon the Property being condemned; or
- E. Should LESSEE materially breach this Lease and fail to cure such breach within thirty (30) days of being notified by CITY regarding such breach to CITY's reasonable satisfaction.

14. **CONDITION OF PROPERTY UPON TERMINATION.** Upon termination of this Lease for any reason, LESSEE will vacate the Property and deliver it to CITY in good order and condition, damage by the elements, earthquake, and ordinary wear and tear excepted.

15. **SALE OR TRANSFER BY CITY.** Should CITY, at any time during the term of this Lease, sell, lease, transfer, or otherwise convey all or any part of the Property to any transferee other than LESSEE, then such transfer will be under and subject to this Lease and all of LESSEE's rights hereunder.

16. **CONDEMNATION.** If all or part of the Property is acquired by eminent domain or purchase in lieu thereof, LESSEE acknowledges that it will have no claim to any

compensation awarded for the taking of the Property or any portion thereof or for loss of or damage to LESSEE's improvements.

**17. RELOCATION BENEFITS.** LESSEE acknowledges that it was informed that CITY is a public entity and that the Property was previously acquired by CITY for a public purpose. LESSEE further acknowledges that any rights acquired under this Lease arose after the date of acquisition of the Property and that said rights are subject to termination when the Property is needed by CITY. LESSEE acknowledges that at the time of any termination of this Lease, LESSEE will not be a "displaced person" entitled to any of the relocation assistance or benefits offered to displaced persons under State or Federal law.

**18. NO PUBLIC PROJECT.** All rights given to LESSEE pursuant to this Lease are for LESSEE's use of the public property identified herein. Any trespass, use, or other utilization of private property by LESSEE is done at its own risk; LESSEE is not an agent of CITY and this Lease is not intended, nor should it be construed, to constitute a public project.

**19. FORCE MAJEURE.** Should performance of this Lease be prevented due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' control, then it will immediately terminate without obligation of either party to the other.

**20. NO FIXTURES.** Improvements and facilities that currently exist, or may be constructed during the term of this Lease, will not constitute fixtures attached to the Property. Any such facilities may be removed by LESSEE upon termination of the Lease.

**21. ALTERATIONS, MECHANICS' LIENS.** Except as provided by this Lease, LESSEE will not make, or cause to be made, any alterations to the property, or any part thereof, without CITY's prior written consent. LESSEE will keep the property free from any liens arising out of any work performed, material furnished, or obligations incurred by LESSEE.

**22. ASSIGNMENT AND SUBLETTING.** This Lease may not be assigned, transferred, or sublet by LESSEE, court order, or through any other means. Any such purported transfer will be null and void.

**23. HOLDOVER.** If LESSEE holds possession of the Property after the Initial Lease Term, or any option, expires, LESSEE will become a tenant from month-to-month at the rent described in Section 3. Such tenancy will be subject to all of the terms and conditions of this Lease.

**24. INDEMNIFICATION.**

- A. LESSEE indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, attorney's**

fees), injuries, or liability, arising out of this Lease, or its performance, except for such loss or damage arising from CITY's sole negligence or willful misconduct. Should CITY be named in any suit, or should any claim be against it, by suit or otherwise, whether the same be groundless or not, arising out of this Lease, or its performance, pursuant to this Lease, LESSEE will defend CITY (at CITY's request and with counsel satisfactory to CITY) and will indemnify it for any judgment rendered against it or any sums paid out in settlement or otherwise.

- B. For purposes of this section "CITY" includes CITY's officers, officials, employees, agents, representatives, and volunteers.
- C. LESSEE expressly agrees that this hold harmless and indemnification provision is intended to be as broad and inclusive as is permitted by the law of the State of California and that if any portion is held invalid, it is agreed that the balance will, notwithstanding, continue in full legal force and effect.
- D. It is expressly understood and agreed that the foregoing provisions will survive termination of this Lease.
- E. The requirements as to the types and limits of insurance coverage to be maintained by LESSEE as required by Section 25 below, and any approval of such insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by LESSEE pursuant to this Lease, including but not limited to the provisions concerning indemnification.

**25. INSURANCE.** LESSEE must procure and maintain insurance of the type, for the period, with the coverages and limits, and in accordance with the terms, conditions, and requirements that follow:

- A. LESSEE will provide Commercial General Liability, Broad Form General Liability and Business Automobile Liability insurance that meet or exceed the requirement of ISO Forms GL0002, GL0404 and CA0001, Code 1, respectively, in the most current State of California approved forms, in connection with LESSEE's performance in the amount of not less than \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage for each policy coverage.
- B. Commercial General Liability, Broad Form General Liability and Business Automobile Liability policies required in this Lease will be endorsed to name CITY, its officials, volunteers, and employees as "additional insureds" under said insurance coverage, to state that such insurance will be deemed "primary" such that any other insurance that may be carried by CITY will be excess thereto, and to state that the

policy(ies) will not be cancelable or subject to reduction except upon thirty (30) days prior written notice to CITY.

- C. LESSEE will furnish to CITY a certificate of insurance, in the standard form required by CITY, duly authenticated, evidencing maintenance of the insurance required under this Lease and such other evidence of insurance or copies of policies as may be reasonably required by CITY from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII."

**26. COMPLIANCE WITH LAW.** LESSEE will, at its sole cost and expense, comply with all of the requirements of all federal, state, and local authorities now in force, or which may hereafter be in force, pertaining to the Property and will faithfully observe in the use of the Property all applicable laws. The judgment of any court of competent jurisdiction that LESSEE has violated any such ordinance or statute in the use of the Property will be conclusive of that fact as between CITY and LESSEE.

**27. WAIVER OF BREACH.** Any express or implied waiver of a breach of any term of this Lease will not constitute a waiver of any further breach of the same or other term of this Lease.

**28. INSOLVENCY; RECEIVER.** Either the appointment of a receiver to take possession of all or substantially all of the assets of LESSEE, or a general assignment by LESSEE for the benefit of creditors, or any action taken or offered by LESSEE under any insolvency or bankruptcy action, will constitute a breach of this Lease by LESSEE, and in such event this Lease will automatically cease and terminate.

**29. NOTICES.** Except as otherwise expressly provided by law, all notices or other communications required or permitted by this Lease or by law to be served on or given to either party to this Lease by the other party will be in writing and will be deemed served when personally delivered to the party to whom they are directed, or in lieu of the personal service, upon deposit in the United States Mail, certified or registered mail, return receipt requested, postage prepaid, addressed to:

LESSEE at: Patrick Pierre  
Attn: Pierre Films  
4242 City Terrace Drive. Apt 6B  
Los Angeles, CA 90063

CITY at: City of Bellflower  
Attn: Economic Development Department  
16600 Civic Center Drive  
Bellflower, CA 90706

Either party may change its address for the purpose of this Section by giving written notice of the change to the other party.

**30. ACCEPTANCE OF FACSIMILE SIGNATURES.** The Parties agree that agreements ancillary to this Lease and related documents to be entered into in connection with this Lease will be considered signed when the signature of a party is delivered by facsimile transmission. Such facsimile signature will be treated in all respects as having the same effect as an original signature.

**31. GOVERNING LAW.** This Lease has been made in and will be construed in accordance with the laws of the State of California and exclusive venue for any action involving this Lease will be in Los Angeles County.

**32. PARTIAL INVALIDITY.** Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid or unenforceable, the remaining provisions of this Lease will remain in effect, unimpaired by the holding.

**33. INTEGRATION.** This instrument constitutes the sole agreement between CITY and LESSEE respecting the Property, the use of the Property by LESSEE, and the specified term, and correctly sets forth the obligations of CITY and LESSEE. Any Lease or representations respecting the Property or its licensing by CITY to LESSEE not expressly set forth in this instrument are void.

**34. CONSTRUCTION.** The language of each part of this Lease will be construed simply and according to its fair meaning, and this Lease will never be construed either for or against either party.

**35. AUTHORITY/MODIFICATION.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Lease and to engage in the actions described herein. This Lease may be modified by written amendment. CITY's city manager, or designee, may execute any such amendment on behalf of CITY.

**36. COUNTERPARTS.** This Lease may be executed in any number or counterparts, each of which will be an original, but all of which together will constitute one instrument executed on the same date.

[Signatures on next page]

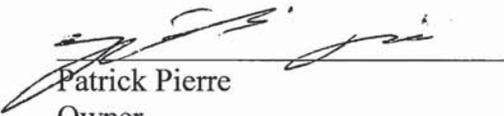


IN WITNESS WHEREOF the parties hereto have executed this Lease the day and year first hereinabove written.

CITY OF BELLFLOWER

  
\_\_\_\_\_  
Jeffrey L. Stewart,  
City Manager

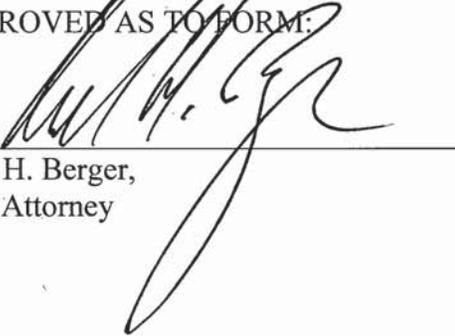
PIERRE FILMS

  
\_\_\_\_\_  
Patrick Pierre  
Owner

ATTEST:

  
\_\_\_\_\_  
Mayra Ochiquni,  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Karl H. Berger,  
City Attorney