

STAFF REPORT



ITEM NO. **16**
CITY OF OCEANSIDE

DATE: October 4, 2006

TO: Honorable Mayor and City Councilmembers

FROM: Neighborhood Services Department

SUBJECT: **APPROVAL TO ACCEPT A DONATION OF TWENTY TREK® DASANI® BLUE BIKES™ AND LOCKERS FROM THE COCA-COLA COMPANY AND APPROVAL FOR THE CITY MANAGER TO EXECUTE THE LETTER OF DONATION.**

SYNOPSIS

Staff and the Parks and Recreation Commission recommend that the City Council approve the donation of twenty TREK® Dasani® Blue Bikes™ and lockers.

BACKGROUND

In July 2005, Dasani®, a subsidiary of the Coca-Cola Company, in partnership with the Rails-to-Trails Conservancy (RTC) and TREK® launched the Dasani Blue Bikes™ Program to promote active lifestyles and the use of trails in communities across the United States. Rails-to-Trails is a non-profit organization with more than 100,000 members and supporters. Founded in 1986, RTC's mission is to create a nationwide network of trails from former rail lines and connecting corridors to build healthier places for healthier people. The initial program called "Life is for the Tasting" sponsored eight cities across the U.S. These included Dallas, Texas; Baltimore, Maryland; Rockmart, Georgia; Pittsburgh, Pennsylvania; Salt Lake City, Utah; Seattle, Washington; Orlando, Florida; and Villa Park, Illinois. Each participating community received a donation of TREK® Blue Bikes™ and lockers to provide to the community at no cost and for use on their trail system. In August 2006, Oceanside was chosen to be next to receive a donation of bikes. Oceanside was chosen because of its existing 7.2 mile San Luis Rey River Trail and its proximity to the rail trail bike path. Oceanside will be the first city in California to receive the donation of the bikes.

ANALYSIS

Currently, the California Parks and Recreation Society has made a call to action to all California cities to create programs within their Parks and Recreation systems that promote active lifestyles to combat obesity, a growing epidemic in the United States.

An acceptance of TREK® bikes to provide recreation at no cost to the community would help to provide easy access to exercise while, at the same time, promoting the use of the San Luis Rey River Trail and downtown Oceanside. The donation of these bikes will be used to kick off the inaugural Family Bike Day, on Saturday, October 21, 2006. This event will be a collaborative effort, including the Parks and Recreation Division of the Neighborhood Services Department and the Water Utilities Department's "Clean Water Program". The funds raised on this day will benefit "Project SWELL" (Stewardship, Water, Education for Lifelong Leadership). Project SWELL is an educational program presented to Oceanside Unified School District students to increase their environmental awareness.

FISCAL IMPACT

There is no expected fiscal impact to the City. Dasani® has made a commitment to donate funds to cover the maintenance cost of the bikes.

COMMISSION OR COMMITTEE REPORT

The Parks and Recreation Commission unanimously approved the Dasani® Blue Bikes™ Program at its September 14, 2006 meeting.

CITY ATTORNEY'S ANALYSIS

City Attorney analysis does not apply

RECOMMENDATION

Staff and the Parks and Recreation Commission recommend that the City Council approve the donation of twenty Dasani® Blue Bikes™ and lockers.

PREPARED BY:

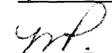

Shannon Sellinger
Senior Management Analyst

SUBMITTED BY:


Barry E. Martin
Interim City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Assistant to the City Manager
Mike Blessing, Deputy City Manager/Community Development
Margery Pierce, Neighborhood Services Director

Attachment: Letter of Donation

LETTER OF DONATION

The Coca-Cola Company, a Delaware corporation (“Donor”), acting by and through its Coca-Cola North America division, hereby donates to The City of Oceanside (“Donee”), and Donee hereby accepts, the bicycles (“Bicycles”), bicycle lockers (“Lockers”) and other items listed on Schedule A attached hereto (individually, an “Item” and, collectively with the Bicycles and Lockers, the “Property”), for use in connection with The San Luis Rey River Trail and the Coastal Rail Trail on the terms and conditions set forth below.

1. Donor represents to Donee as follows:
 - (a) Donor is not the manufacturer of any of the Property, and all Property donated hereunder, as set forth in Schedule A, is donated AS IS, WITHOUT WARRANTY. Donor hereby transfers and assigns to Donee all of Donor’s assignable rights, remedies, and warranties from and against the manufacturers of the Property.
 - (b) At the time of delivery to Donee, Donor will have, and by this Letter of Donation hereby donates to Donee, good and marketable title to all of the Property, free and clear of any and all leases, liens, mortgages, pledges, charges, claims, and encumbrances whatsoever.
 - (c) In addition to the Property described in Schedule A, donor will also provide Donee with a cash donation of \$500 to help Donee pay for labor to maintain a community bike program. This cash donation in no way places any responsibility for such maintenance on Donor.
 - (d) The aggregate fair market value of the Property being donated hereby (including the aforementioned cash donation), as of the date of this Letter of Donation, is \$64,000.
2. Donee acknowledges that certain of the Property (or all of it) may feature branding, either for Donor’s products or for the manufacturer(s) of said Property, and Donee agrees that it will not remove, cover or otherwise obscure any such branding while the Property is being used for any public purpose by Donee or its successors, assigns or licensees.
3. Donee agrees to use reasonable efforts to maintain each Item of Property in good working condition while such Item is being used for any public or private purpose by Donee or its successors, assigns or licensees. Without limiting the foregoing, Donee expressly agrees to use reasonable efforts to maintain each of the Bicycles that may be made available for public or private use in good working order (or to cause them to be so maintained by a responsible third party) and to make the use of such Bicycles subject to processes and procedures that will notify potential users of the risks of utilizing such Bicycles and of the “ride at your own risk” nature of such use. These processes and procedures will include, without limitation, the use of the Lockers for storage of the Bicycles, the use of a “checkout card” process for loaning of the Bicycles to any potential users, and the requirement that each user sign an appropriate waiver prior to using a Bicycle.
4. Upon Donee’s ability to demonstrate its continued operation of an acceptable community bike program (via completion of a program usage survey to be sent by Donor to Donee in

December of each year), Donee will receive \$500 to be used toward general maintenance, as well as an allowance of \$1500 with which to order parts/replacement Bicycles from Donee's local Trek dealer (name and contact information to be supplied by Donor) for 2007 and for each year thereafter, provided that Donor shall have the right, in its sole discretion, to cease this ongoing financial support at any time following 2007. Trek Bicycle Corporation will bill Donor directly for the total of parts/labor against which the foregoing allowance is applied, up to \$1,500 annually.

5. DONOR DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE PROPERTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. DONEE AGREES THAT DONOR WILL NOT BE LIABLE FOR ANY CLAIM OR DEMAND AGAINST DONOR OR DONEE BY ANY PARTY WITH RESPECT TO THE PROPERTY, EVEN IF DONOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DEMAND.
6. Donor and Donee to this Letter of Donation each agree to be responsible for all costs, including reasonable attorneys' fees and court costs, resulting from its own negligence in performance of the obligations contained in this Letter of Donation.
7. This Letter of Donation and the representations herein contained shall survive the execution and delivery of this Letter of Donation, and shall inure to the benefit of the parties and their successors and assigns.

IN WITNESS WHEREOF, the parties have caused this Letter of Donation to be executed as of this 4th day of October, 2006.

DONOR: THE COCA-COLA COMPANY,
acting by and through its Coca-Cola North
America Division

By: _____

Title: _____

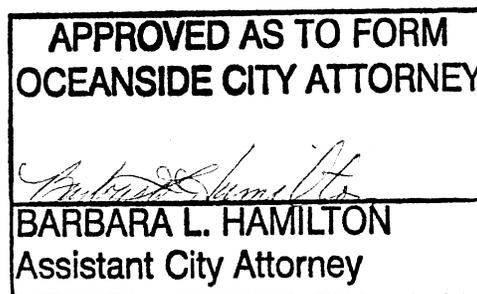
Accepted and Agreed:

DONEE:

By: _____

Barry E. Martin

Title: Interim City Manager



SCHEDULE A (SAMPLE)

10 Bike Lockers
20 Trek Cruiser Bikes
2400 Checkout Cards