



London N. Breed, Mayor
Philip A. Ginsburg, General Manager

Date: September 6, 2018

To: Recreation and Park Commission

Through: Phil Ginsburg, General Manager
Dana Ketcham, Director Property Management, Permits and Reservations

From: Brian DeWitt, Property Manager

Subject: Palace of Fine Arts Theatre Lease

Agenda Item Wording

Discussion and possible action to authorize the Department to renew the lease with The Palace of Fine Arts League for the continued operation of The Palace of Fine Arts Theatre for a period of up to five more years, with terms substantially the same as the draft lease dated August 15, 2018.

Strategic Plan

Objective: 2.3: Work with partners and neighborhood groups to activate parks through organized events, activities, and unstructured play

Background

Since 1970, The Palace of Fine Arts League, Inc. (the "League") has operated the Palace of Fine Arts Theatre (the "Theatre"), under various lease agreements with the Department for the purpose of arranging, scheduling, and booking any and all performances and events at the Theatre. The League, a non-profit corporation formed in 1957 and lead by industrialist Walter Johnson, organized the reconstruction of the Palace of Fine Arts and has operated the 1,000-seat theater since its inception.

The Department entered into a lease agreement with the League in 2009 to operate the Theatre until the Exploratorium lease expired on February 28, 2013. Since then, the Department has extended the lease through three lease amendments through September 30, 2018. The extensions enabled the Department to conduct an RPF in search for a long-term tenant for the Palace.

Proposed Lease

The most recent lease and extensions have only provided the League with assurances that they could remain in the space for one year to 18 months. The League has requested a longer term in order to cover the costs of some needed upgrades including replacing the carpet and curtains, repainting the walls, and installing a new concession area. The cost of these upgrades is expected to be approximately \$400,000. The League requested a guarantee of an additional three-year term. The League also requested two years notice of a future termination so that they would have

be in a better position to book future performances. They had previously only had at most a one year look forward.

The Department has negotiated with the League a proposed lease (Exhibit A) reflecting the terms contained in the “Summary of Terms” below. Overall, the terms of the proposed lease are basically the same as the existing lease with the exception of the term duration. The proposed lease guarantees the League a minimum term of three years based on a required two-year termination notice after the first-year anniversary.

The Department continues to engage in conversations with potential new tenants for the entire Palace of Fine Arts building but given the time needed to negotiate a lease and subsequently complete all studies and environmental review, staff believes that the proposed time frames would not impede the Department’s ability to find a new tenant.

Due to the continuing uncertainty of the term of the lease and the issues with the condition of the building systems, the Department has not increased the monthly rent since 2009.

Summary of Terms

<i>Terms:</i>	Details
<i>Term:</i>	Five (5) years. Termination: Either party can terminate this agreement for any reason with 24-months prior notice delivered after the one-year anniversary of the lease.
<i>Extensions:</i>	None
<i>Permitted Use:</i>	Arranging, scheduling, booking and making the Premises available for performances, events and activities at the Palace Fine Arts Theatre for the benefit of the public, and matters reasonably incidental thereto. Permitted uses include without limitation (a) providing catered food service for particular occasions, (b) giving tours, and (c) cloak room or rest room valet services.
<i>Base Rent:</i>	Annual Base Rent: \$177,600 per year Monthly Base Rent: \$14,800 per month
<i>Security Deposit:</i>	\$14,800

Terms:	Details
<i>City Days:</i>	<p>City may request use at any time and shall have the right to reserve dates to use the Premises (the "City Days"). Tenant shall have no right to deny City use of the Premises on a requested date if Tenant has not entered into a contract for scheduled events on a requested date. For the purposes of this section (Section 7.2), the use of the term "contract" includes an agreement for either a "firm" or "hold" date for an event, provided that for a hold date, if requested for use by the Department, upon 15 days notice the event must have submitted a nonrefundable deposit of at least 10% of the cost.</p> <p>City may have up to four (4) City Days per month as further described in Section 7.2 up to a maximum of 12 City Days per calendar year.</p>

Staff Recommendation:

Department staff recommends that the Commission authorize the General Manager to negotiate and enter into on behalf of the Department a five-year lease with The Palace of Fine Arts League in accordance with the terms above.

Supported By:

Palace of Fine Arts League
 Maybeck Foundation
 NonPlusUltra

Opposed By:

No Known Opposition

Attachments

Exhibit A – Draft lease dated August 15, 2018

Exhibit A to Staff Report