



COUNCIL REPORT

DATE: October 11, 2022
CATEGORY: Consent
DEPT.: Public Works
TITLE: **Bean Scene Café Lease Amendment**

RECOMMENDATION

1. Authorize the City Manager or designee to amend the lease with Wayne Liu and Xiaolin Xu, doing business as The Mountain View Bean Scene for the Performing Arts Café, to continue to waive the Consumer Price Index annual rent adjustment for the first two years of the five-year Option Term; reduce rent to \$25,529 per year for years one and two of the Option Term; and set rent for year three of the Option Term at \$51,058 plus the Consumer Price Index annual rent adjustment for October 1, 2024. Consumer Price Index rental adjustments will continue for the remaining duration of the Option Term.
2. Authorize the City Manager to execute future amendments to the lease that would result in cumulative financial impacts, including adjustments to rental rates or annual Consumer Price Index increases, within the limits of Council Policy A-10—Authorization to Execute City Contracts and Agreements and Increase Certain Limited Appropriations effective at the time of any lease amendment execution.

BACKGROUND

The Bean Scene Café leases 1,200 square feet of indoor space within the Center for the Performing Arts (CPA) and also provides outdoor seating within a portion of the Civic Center Plaza. The Café provides food and beverage service to CPA patrons prior to performances and at intermissions, and to the general public during nonperformance times. The original lease commenced on October 1, 2002 and expired in 2017.

On [April 18, 2017](#), the City Council authorized the City Manager to enter into a new lease with the Bean Scene Café for a term of five years, with one option term to extend the lease for an additional five years (beginning on October 1, 2022 and ending September 30, 2027). Council also authorized the City Manager to execute future amendments to the lease that do not have a financial impact of greater than \$100,000. In 2017, Council Policy A-10—Authorization to Execute City Contracts and Agreements and Increase Certain Limited Appropriations (Council Policy A-10) limited City Manager-delegated authority to execute leases of City real property to and from

others to \$100,000 of the total cumulative value of the lease. The Bean Scene lease approved in 2017 exceeded \$100,000 in cumulative value for the five-year term plus five-year option term of the lease. Granting the City Manager approval to execute lease amendments up to a value of \$100,000 provided flexibility to amend the lease to reflect changing conditions without returning to Council.

On [September 28, 2021](#), Council adopted a resolution to amend Council Policy A-10, which included increasing the City Manager's delegated authority to \$500,000 in annual rent for the lease of property to and from others.

ANALYSIS

Over 90% of the Bean Scene Café's revenue is from food and beverage service to CPA patrons. The COVID-19 closure of the CPA from March 2020 to October 2021 also resulted in the closure of Bean Scene Café due to the lack of a customer base. When the Bean Scene Café reopened, the CPA had a limited schedule of performances and was operating at reduced capacity. The City provided rent relief in the form of waived rent and reduced rent from March 2020 to September 2022. In addition, the City did not raise the rent for Consumer Price Index (CPI) increases as allowed under the lease in 2020 or 2021 due to the continued impacts of COVID-19. Cumulatively, the rent relief and waiver of rent increases have reached the maximum limit of delegated authority granted to the City Manager in 2017.

The Bean Scene Café's current five-year lease was due to expire on September 30, 2022. Last month, the Bean Scene Café exercised the option term to extend the lease another five years, extending the current lease to September 30, 2027. However, the CPA is still scheduling fewer shows than in a typical pre-COVID-19 year, and attendance is below average. Along with exercising the renewal option, the Bean Scene Café has requested the City amend the lease to reduce rent by 50% from October 1, 2022 to September 30, 2024 (Years 1 and 2 of the five-year option term) and continue to waive the annual CPI adjustment to rent for the first two years. This means the annual rent will be \$25,529 for Years 1 and 2. The annual rent for October 1, 2024 will be set at \$51,058 plus the applicable annual CPI increase on this amount. The reduced rent will allow the Bean Scene Café to continue operating while the CPA works to increase the number of shows offered and improve attendance back to prepandemic levels.

Approval of the reduced rent for the first two years of the five-year lease extension, combined with the rent relief already provided, exceeds the City Manager's delegation of authority granted in 2017. In addition to recommending Council approval of the reduced rent, staff recommends that the Council amend its delegation of authority to the City Manager to execute future amendments to the lease with a cumulative financial impact that is within the limits set by Council Policy A-10, currently in effect at the time an amendment is executed. As noted above, the current limit of City Manager authority is \$500,000.

FISCAL IMPACT

Per the terms of the lease, the Bean Scene Café’s rent from October 2022 to September 2023 is \$51,058. Annual rent is increased based on the CPI, San Francisco-Oakland-San Jose All Urban Consumers, with a minimum increase of 3% and maximum increase of 5% per year. A 50% reduction in annual rent for two years will reduce City revenue by approximately \$52,000. If Council approves the two-year rent reduction, the annual rent for Years 3 to 5 will be the full rent of \$51,058 plus the CPI annual increases of not less than 3%, and not to exceed 5%, beginning October 1, 2024.

ALTERNATIVES

- 1. Approve different terms and conditions for the five-year lease extension.
- 2. Do not approve the two-year reduction in rent.
- 3. Provide other direction.

PUBLIC NOTICING—Agenda posting and a copy of this report was sent to Mr. Wayne Liu.

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