



**DATE:** April 18, 2017

**CATEGORY:** Consent

**DEPT.:** Public Works

**TITLE:** **Approve Lease Renewal of Bean Scene Café**

### **RECOMMENDATION**

1. Authorize the City Manager to execute a lease with Mr. Wayne Liu, d.b.a. Bean Scene Café, for a term of five years with one five-year renewal option under the terms and conditions set forth in this Council report.
2. Authorize the City Manager to execute future amendments to the lease for the renewal option and any amendments that do not have a financial impact of greater than \$100,000.

### **BACKGROUND**

The Bean Scene Café operates in approximately 1,200 square feet of indoor space within the Center for Performing Arts (CPA) building and also provides outdoor seating within a portion of the Civic Center Plaza area. The Bean Scene Café provides food and beverage service to CPA patrons prior to performances and at intermissions, and to the general public during nonperformance times. The Café space was designed and constructed for light food and beverage preparation and sale only—the required gas service and other requirements for a full-kitchen operation (i.e., grease trap, etc.) were not plumbed into the facility when it was constructed. All of the interior improvements were finished by the City in 1997 and all of the major equipment (e.g., freezers and refrigerators) were installed by the City and remain the property of the City.

On July 9, 2002, the City Council authorized the City Manager to execute a five-year lease, with one five-year renewal option, to a selected operator. The lease commenced on October 1, 2002. The one option was exercised by the tenant at the time. The current tenant, Mr. Wayne Liu, assumed the lease on May 1, 2008. On June 24, 2008, the City Council granted an extension of the full term of the lease to September 30, 2017. There are no additional options to further extend the lease.

The current annual rent, which is adjusted each January 1 by the Consumer Price Index (CPI) (and increased not less than 3 percent, nor more than 5 percent), is \$47,701.20. The lease is a “triple net” lease with the tenant paying for all maintenance (except building exterior and building system feeds), janitorial service, and possessory interest taxes.

## **ANALYSIS**

The current tenant, Wayne Liu, has expressed interest in remaining as the tenant in the CPA retail space. During his eight-year tenancy, Mr. Liu has been a responsible and responsive tenant, paying his rent to the City in a timely manner and satisfying all required lease obligations.

At a Study Session on June 7, 2016, Council addressed the following two fundamental questions:

1. Should the City renew the lease with the current tenant, or should the City market the property through a competitive Request for Proposals (RFP) process?
2. Is the City Council willing to consider a capital investment to upgrade the facility in conjunction with signing a new lease; or, would Council consider requiring the tenant to pay for any upgrades, but agree to a longer-term lease to allow the tenant to amortize those costs?

Council favored renewing the lease with the current tenant rather than going through a lengthy RFP process that may not generate robust results due to the small size and limited utility of the space. Council did not provide direction for a capital investment to upgrade the facility, but did indicate a desire to enliven the Plaza in front of the Bean Scene and for the Bean Scene to make greater use of technology (e.g., phone apps) to advertise and promote preordering for performance intermissions and to increase throughput of CPA patrons during intermissions and after performances. City staff will be presenting concepts for the improvement of the Civic Center Plaza as a New Business item later in this Council meeting.

Leasing the space to the current tenant for a term of five years, with one five-year renewal option, provides continuity of operations for the benefit of the City and the CPA and provides a sufficient level of security to the tenant to invest some of his capital to upgrade the interior to make it more inviting and more efficient to serve a higher volume of customers. Staff makes the following recommendations on basic business points:

- Five-year base term, with one five-year option subject to the City Manager's approval based on expected tenant performance metrics to be defined in the lease.
- A base rent of \$48,000 per year, beginning October 1, 2017, increasing on each anniversary date by the CPI, San Francisco-Oakland-San Jose All Urban Consumers, and increased not less than 3 percent, nor more than 5 percent
- The tenant will be responsible for all janitorial services and the maintenance, repair, and replacement (if necessary) of all interior improvements, interior service lines and HVAC, and appliances.
- The tenant will be responsible for ensuring the Plaza immediately in front of the premises, and the outside areas used by customers, remains litter free.

### **FISCAL IMPACT**

The recommended base rent of \$48,000 is slightly more than the current rent of \$47,701.20 and will escalate each year at the same rate as the current lease. Bean Scene Café rents are deposited into the General Operating Fund.

### **ALTERNATIVES**

1. Council could approve different terms and conditions.
2. Council could decide to not renew the lease.

**PUBLIC NOTICING** – Agenda posting with a copy of the report to Mr. Wayne Liu.

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