

Mayor and Council Communication

DATE: 05/23/23

M&C FILE NUMBER: M&C 23-0427

LOG NAME: 212022HIPPOCKET

SUBJECT

(CD 7 / Future CD 7) Authorize an Amended and Restated Lease Agreement with Existing Tenant, Pocket Theatre, Inc. d/b/a Hip Pocket Theatre, for an Eleven Acre Tract of Land Located at 1950 Silver Creek Road, 76108 in West Fort Worth for Nominal Consideration and Find that Execution of the Lease Serves a Public Purpose

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the City Manager to enter into an amended and restated lease agreement with the existing tenant, Pocket Theatre, Inc., d/b/a Hip Pocket Theatre, for an eleven-acre tract of land located at 1950 Silver Creek Road, 76108 in West Fort Worth; and
2. Find that execution of the lease in accordance with the specified terms serves a public purpose and that adequate controls exist to ensure the public purpose is met.

DISCUSSION:

The purpose of this Mayor and Council Communication (M&C) is to authorize an amended and restated lease agreement between the City of Fort Worth (City) and Pocket Theatre, Inc., d/b/a Hip Pocket Theatre (Hip Pocket), for the City-owned property currently utilized as the Hip Pocket Theatre.

Since 2004, Hip Pocket has leased an 11.25-acre City-owned tract with partial frontage on Sliver Creek Road located near Lake Worth for use as an outdoor theater facility (M&Cs G-14394, L-15779; City Secretary Contract Nos. 30117, 46805). For most of this period, Hip Pocket has been required to make annual lease payments of \$14,702.00.

Because of the pandemic, Hip Pocket was unable to operate in 2020 and subject to limited operations in 2021. As a result, the organization could not generate income to cover expenses, and the lease payments for 2020 and 2021 were deferred.

In connection with the upcoming lease renewal, City and Hip Pocket staff engaged in discussions regarding a possible restructuring of the lease with an eye toward enhancing the organization's long-term viability while facilitating repayment of the unpaid lease balance. Because conversations have been ongoing and the new lease has not yet been executed, the annual lease payment for 2022 has not yet been made either.

Pocket Theatre, Inc. is a Texas Nonprofit Corporation that engages in the production of live outdoor theatrical performances. For other City-owned theater facilities that are operated by non-profit organizations, the required monetary lease payment is generally a nominal amount because the organizations provide a public benefit by expanding the cultural offerings in the City, with the tenant also obligated to make improvements to and/or maintain the leased facilities. For example, the Casa Manana lease includes a \$1,200.00 annual lease payment (City Secretary Contract No. 19139, as amended and addended), and the Rose Marine lease includes a \$1.00 annual lease payment (City Secretary Contract No. 46908, as renewed) with the tenants in both instances subject to certain facilities obligations as well.

To bring this lease in line with those other similar facilities, the staff is proposing that the outstanding balance for 2020-2022 (\$30,404.00) be offset via a combination of cash payment and facility improvements with a total combined value of \$16,500.00 and that, going forward, a more modest lease payment be imposed.

The following terms are proposed for the amended and restated lease:

Initial term

- Six years (2022-2027)
- A cash payment of \$2,000.00 is due upon execution of the renewal (the proposed 2022 renewal rate, along with the 2023 renewal rate)
- Mandatory improvements to be completed by November 30, 2023, with estimated cost/value:

New entrance gate and fencing	\$6,000.00
Repairs to concession and restroom buildings	\$3,000.00
Solar lighting upgrades in the parking lots	\$2,000.00

Grading entrance drive and public parking lot	\$2,000.00
Upgrading the walking path to the theatre entrance	\$1,500.00
TOTAL OF THESE IMPROVEMENTS	\$14,500.00

- *If Mandatory Improvements are not made* by November 30, 2023, the lease obligation during the initial term will be cash payments of \$5,067.34 (1/6 of the \$30,404.00 in prior lease obligation plus \$100.00 for ongoing/new use while past amounts are being caught up).
- Hip Pocket will be obligated to maintain the property and improvements at its sole cost and expense (and subject to any specifically required standards spelled out in the lease).

Renewals

- Five one-year renewal options
- The lease monetary rate during each renewal option will be \$1,000.00 a year, due in one single payment on October 1 of each year.
- Hip Pocket will be obligated to maintain the property and improvements at its sole cost and expense (and subject to any specifically required standards spelled out in the lease).

The amended and restated lease reflects updated terms and conditions and requires that any permanent improvements constructed by Hip Pocket during the term of the lease will become the property of the City of Fort Worth upon the termination of the lease.

In approving this M&C, the City Council will be finding that execution of the lease subject to the terms outlined above serves a public purpose by providing additional opportunities for members of the public to experience the performing arts in Fort Worth and that adequate controls are in place to ensure the lease serves its public purpose – i.e., the reduced lease rate is subject to the facility continuing to be operated as a theater that is open to the public.

The property is located in COUNCIL DISTRICT 7 / FUTURE COUNCIL DISTRICT 7

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that upon approval of the above recommendations and execution of the lease agreement, funds will be deposited into the General Fund. The Property Management Department (and Financial Management Services) is responsible for the collection and deposit of funds due to the City.

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