


CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

0220-04635-0000

Date: November 22, 2010

To: Arts, Parks, Health and Aging Committee

From: Miguel A. Santana 
City Administrative Officer

Subject: **STATUS REPORT ON DEPARTMENT OF CULTURAL AFFAIRS REQUEST FOR PROPOSALS FOR PUBLIC-PRIVATE PARTNERSHIPS**

On June 30, 2010, Council instructed the City Administrative Officer (CAO) and the Department of Cultural Affairs (DCA) to form a working group to facilitate the drafting of a Request for Proposals (RFP) to transition 14 cultural art facilities to public-private partnerships. Six months funding in the amount of \$365,000 was provided in the 2010-2011 adopted budget to ensure the facilities stayed open during the RFP process. The facilities were scheduled to be partnered on January 1, 2011. The working group met several times to discuss the partnering of the facilities and make recommendations concerning specifics of the RFP. During this time, an additional facility was added to the list of facilities for inclusion in proposed RFP, increasing the number of facilities targeted for partnering to 15. Three public hearings have been held and the arts community has provided input to the proposal. The DCA issued its report on September 20, 2011 which incorporated comments from the various stakeholders. On September 28, 2010, DCA presented recommendations for issuing the RFP to the Arts Parks, Health and Aging Committee (Attachment 1).

At the public hearing on September 28, 2010, the Arts, Parks, Health and Aging Committee requested that the CAO coordinate the issuance of the RFP. Additionally, this Office was requested to address the concerns raised by the various departments and report back on the status of funding availability for operating the facilities for the balance of the fiscal year. CAO staff has met with the stakeholders in an attempt to resolve the outstanding issues.

The Department of Recreation and Parks (RAP) raised concerns regarding the nine facilities on RAP land and whether RAP would be required to fund the costs outlined in the DCA proposal. The facilities have been operated by DCA since the creation of the Department, however the governance and maintenance responsibilities are detailed in the operating agreements between the City and RAP. The Department of General Services (GSD) currently provides custodial services, building maintenance and repair as well as, security and utilities. RAP is responsible for exterior gardening, irrigation maintenance and landscaping. The proposed partnership agreements would not alter the operating agreements currently in place. However, because the facilities are on RAP land, the approval Board of Recreation and Parks is required for the proposed RFP and the execution of the leases. It should be noted that two of the facilities do not currently have operating agreements in place. Operating agreements should be drafted prior to the execution of the new partnership agreements.

GSD also had concerns regarding the terms of the proposed agreements. GSD was asked to provide the fair market rental value for the various facilities and the yearly costs for operating the facilities. The rent proposed by the DCA was based on a sliding scale tied to a square footage range and identified the other costs to be assumed by the proposed contractor. However, GSD questioned whether the rents proposed created obligations for the City to provide a certain level of landlord services. The proposed rents when averaged between the 15 facilities, equal approximately four percent of the fair market rental value. This Office recommends that rent for each facility be four percent of the fair market rental value (Attachment 2).

GSD expressed concerns regarding the payment of utilities. It is recommended that language be added to the agreements that would require the contractor to manage utility costs and not exceed a baseline developed from historical usage. If the facilities utility kilowatt usage increase beyond 20 percent of the historical average, the City may elect to reduce the stipend provided to the Contractor. If the Contractor can demonstrate that the increased usage is the result of additional programming and activity at the facility, the stipend would not be reduced.

GSD also expressed concern regarding the maintenance terms in the proposed agreements. DCA has proposed that the Contractor will be responsible for maintenance up to \$5,000 and that the City would be responsible for all repairs over \$5,000. It is recommended that Contractor shall be responsible for the maintenance of the interior of the building and of equipment installed by the City, including all repair work and preventive maintenance. In the event that more significant repairs would be required, DCA will incorporate requests for funding as part of the annual budget process. DCA would work with the Contractors and coordinate the submission of any requests for funding. There is no guarantee that a facility will receive funding for projects under these programs.

Funding for Continued Operations

In the 2010-11 Adopted Budget, it was projected that the facilities would be partnered by January 1, 2011. DCA was provided funding in the amount of \$365,000 to continue the operation of the facilities through December 31, 2010. This Office was asked to identify funding to continue to operate the facilities until the RFP process is completed.

The Committee enquired about the feasibility of using Arts Development Fee monies to fund operations on an interim basis. The City Attorney has indicated the use of Arts Development money is highly restricted and cannot be used for this purpose. Additionally, funding from General Obligation bonds cannot be used for these facilities because these funds can not be used for operations. Section 5.115.4 of the Los Angeles Administrative Code established the Arts and Cultural Facilities and Services Trust Fund. The Arts and Cultural Facilities and Services Trust Fund receives an amount equal to one percent of the total cost of all construction, improvement or remodeling work for each public works capital improvement project undertaken by the City. Monies collected through the City's One Percent for the Arts would be eligible to be used for this purpose. The DCA receives approximately \$50,000 a year

from City capital projects. However, the funding is allocated to the DCA as part of their budget and is already allocated to arts programming.

DCA budgeted a total of \$195,000 to provide a stipend for the proposed contractors at the 15 facilities. Currently, there are six facilities partnered out and these providers have received the first portion of the annual allocation. If the facilities are partnered on March 1, 2011, the new Contractors would receive funding for one quarter. As a result of the delay in partnering the facilities and money set aside for one quarter funding, approximately \$45,000 is available in savings to continue programming. There are currently no other resources to continue operation of the facilities past December 31, 2010. This Office is currently working with DCA to identify the funding level required to continue service until March 1, 2010.

Outstanding Issue

The DCA proposal recommended that the facilities be leased in "as is" condition. The City Attorney and GSD have expressed concerns about the requirements covering the conditions of the facilities to be partnered. BOE staff has indicated absent a change of use in the facilities, there would be no significant code changes required. This Office is working with the City Attorney and GSD to clarify this issue. This item will need to be resolved prior to the issuance of the RFP.

Next Steps

CAO staff will continue to work with the City Attorney regarding the lease issue. Once the issue is resolved, this Office will move the RFP through the various approval processes. The RFP requires the approval of the RAP Board, City Council and Mayor. Once the proper approvals have been obtained, this Office will release the RFP. DCA will be asked to convene the subject-matter expert panel to evaluate the Request for Proposals and return to the City Council for approval to partner the 15 facilities.

Recommendation

That the City Council receive and file this report.

Fiscal Impact Statement

This report is submitted for informational purposes. There are no recommendations which impact the General Fund.

Attachments

MAS:CEA:08110113

Department of Cultural Affairs
Partnership Terms

Attachment 1

Issue	DCA Proposal	Proposed Revisions
Lease Term	A five year lease term with an option for additional five years	No Change
Rent	Contractor to pay rent on a sliding scale of \$500, \$750 and \$1,000, dependent on the square footage of the facility	Rent based on 4% of Fair Market Rent provided by GSD. Similar to CAD proposal, but is more evenly distributed based on actual square footage.
Water, Electricity and Gas (Utilities)	City to pay	City to pay for utilities, but will provide a historical baseline that if contractors exceed by more than 20 percent, their stipend may be reduced.
Maintenance	Contractors would pay for maintenance up to \$5,000 contractor. Major repairs to be performed by the City.	The Contractors will be responsible for basic maintenance issues; there will not be a \$5,000 limit. Should additional funding be required, DCA will pursue funding options through the annual budget process.
Custodial	Contractor to pay	No Change
Trash	Contractor to pay	No Change
Security	Contractor to pay	No Change
Communication Services	Contractor to pay	No Change
Liability Insurance	Contractor would be required to obtain liability insurance. i	No Change
Stipend	DCA would provide an annual stipend of \$14,000 for the first five years of the agreement	No Change

**DEPARTMENT OF CULTURAL AFFAIRS FACILITY COSTS
2009-10**

Attachment 2

FACILITY	FAIR MARKET RENTAL			ANNUAL MARKET RENT	DCA Proposed Monthly Rent	% of Market Rate	Monthly Rent charged at 4% of Market Rate
	COST/ SQ FT	SQUARE FOOTAGE	MONTHLY MARKET RENT				
Recreation and Parks Facilities							
Art in the Park Arts Center at Hermon Park in Arroyo Seco	\$1.25	2,847	\$3,558.21	\$42,698.55	\$500.00	14.1%	\$ 142.33
Encino Folk Arts Center (Encino)	\$1.25	1,358	\$1,697.50	\$20,370.00	\$500.00	29.5%	\$ 67.90
Lincoln Heights Junior Art Center (Lincoln Heights)	\$1.25	14,720	\$18,400.00	\$220,800.00	\$1,000.00	5.4%	\$ 736.00
William Reagh Los Angeles Photography Center	\$1.25	2,500	\$3,125.00	\$37,500.00	\$500.00	16.0%	\$ 125.00
McGroarty Arts Center (Tujunga)	\$1.50	5,527	\$8,290.64	\$99,487.62	\$750.00	9.0%	\$ 331.63
Barnsdall Art Center (Hollywood)	\$1.75	9,105	\$15,934.15	\$191,209.83	\$750.00	4.7%	\$ 637.37
Barnsdall Junior Arts Center (Hollywood)	\$1.75	18,328	\$32,074.19	\$384,890.31	\$1,000.00	3.1%	\$ 1,282.97
Barnsdall Gallery Theatre (Hollywood)	\$1.75	3,939	\$6,892.57	\$82,710.81	\$500.00	7.3%	\$ 275.70
Barnsdall Municipal Gallery (Hollywood)	\$1.75	16,700	\$29,225.00	\$350,700.00	\$1,000.00	3.4%	\$ 1,169.00
Subtotal	\$13.50	75,024	\$119,197.26	\$1,430,367.12	\$6,500.00	5.5%	\$4,767.89
City of Los Angeles Facilities							
Eagle Rock Community Cultural Center (Eagle Rock)	\$1.50	9,766	\$14,648.42	\$175,780.98	\$750.00	5.1%	\$ 585.94
Lankershim Arts Center (North Hollywood)	\$2.00	5,672	\$11,344.36	\$136,132.32	\$750.00	6.6%	\$ 453.77
William Grant Still Art Center (Mid-Wilshire)	\$1.50	3,327	\$4,989.99	\$59,879.88	\$500.00	10.0%	\$ 199.60
Madrid Theatre (Canoga Park)	\$2.00	15,197	\$30,394.34	\$364,732.08	\$1,000.00	3.3%	\$ 1,215.77
Warner Grand Theatre (San Pedro)	\$2.50	39,839	\$99,596.65	\$1,195,159.80	\$1,000.00	1.0%	\$ 3,983.87
Vision Theatre (Leimert Park)	\$2.00	16,000	\$32,000.00	\$384,000.00	\$1,000.00	3.1%	\$ 1,280.00
Subtotal	\$11.50	89,800	\$192,973.76	\$2,315,685.06	\$5,000.00	2.6%	\$ 7,718.95
TOTAL	\$25.00	164,824	\$312,171.02	\$3,746,052.18	\$11,500.00	3.7%	\$12,486.84
 Barnsdall Total	 \$7.00	 48,072	 \$84,125.91	 \$1,009,510.95	 \$3,250.00	 3.9%	 \$ 3,365.04