

REPORT OF GENERAL MANAGER

APPROVED
JUL 19 2012
**BOARD OF RECREATION
& PARK COMMISSIONERS**

NO. 12-227

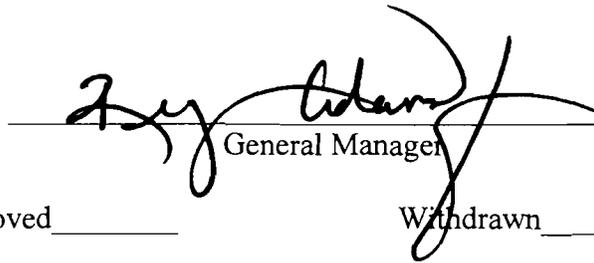
DATE July 19, 2012

C.D. 4

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GRIFFITH PARK – GREEK THEATRE – FOURTH AMENDMENT TO CONCESSION AGREEMENT NO. 245

| | |
|-----------------|------------------------|
| R. Adams _____ | K. Regan _____ |
| H. Fujita _____ | M. Schull _____ |
| V. Israel _____ | *N. Williams <u>NW</u> |



General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Approve a proposed Fourth Amendment to Concession Agreement No. 245, substantially in the form on file in the Board Office, between the City of Los Angeles Department of Recreation and Parks (Department) and Nederlander-Greek, Inc., for the operation and maintenance of the Greek Theatre Concession, to extend the term of the Concession Agreement from eleven (11) years to fourteen (14) years, subject to approval of the Mayor, the City Council, and the City Attorney as to form;
2. Find, in accordance with Charter Section 1022, that the Department does not have personnel available in its employ with sufficient expertise to undertake these specialized professional tasks and that it is more feasible and economical to secure these services by contract;
3. Find, in accordance with Charter Section 371(e)(10) and Los Angeles Administrative Code Section 10.15(a)(10), that the use of competitive bidding, for contracts for the performance of professional, scientific, expert, technical or other special services, would be undesirable, impracticable or impossible due to the current economic climate, the downturn in the concert touring industry, including the decline in audience attendance and competition from other venues in the surrounding area, and is, therefore, not advantageous to the City until after the City first completes the pending Request for Proposal for a Consultant to Conduct a Best Business Practice Study of the Greek Theatre Concession (RFP), hires an economic consultant, and develops an RFP implementing the best business practices;
4. Direct the Board Secretary to transmit forthwith the proposed Amendment to the Mayor in accordance with Executive Directive No. 3 and, concurrently, to the City Attorney for review and approval as to form; and,
5. Authorize the Board President and Secretary to execute the Amendment upon receipt of the necessary approvals.

REPORT OF GENERAL MANAGER

PG. 2

NO. 12-227

SUMMARY:

The Greek Theatre is located at 2700 North Vermont Avenue in Griffith Park and has provided entertainment and cultural events to the public since it was officially dedicated in 1929.

Since beginning operations, the open-air amphitheatre has been host to a number of top musical acts such as Ray Charles, B. B. King, Tony Bennett, Bruce Springsteen, Sting, and Michael Bublé. The venue also hosts the annual "Bach, Rock & Shakespeare" event, which allows students from the John Marshall High School Performing Arts Academy to showcase their talent, and in 2011, began hosting "EEK! At the Greek," a Halloween-themed, family-friendly event featuring Symphony In The Glen, as well as a "Trick-or-Treat Village" in the Greek's front plaza.

The Greek Theatre Concession has been operated by Nederlander-Greek, Inc. (Concessionaire) under Concession Agreement Number 245 (Agreement) since May 21, 2002. Pollstar, the touring industry magazine and website, has awarded the Greek Theatre "Best Small Outdoor Venue" every year since 2004 and named Rena Wasserman, the General Manager for the Greek Theatre, the 2009 "Facility Director of the Year."

The Concessionaire has actively been involved with the community by maintaining a newsletter, having "Neighbor Nights" events, and hosting monthly "coffee hour" community gatherings. The Concessionaire also hosts the Greek Theatre Advisory Committee monthly meetings during the season, which begins in April and ends in October, to discuss event activities in an open forum. Comments from the public have been positive and concerns have been addressed in a prompt manner.

In 2011, the Greek Theatre generated \$20,228,755 gross receipts, paid \$1,458,709 in rent to the Department, and has consistently been the highest revenue-producing non-golf concession.

Previously, the Board approved two amendments to the original contract. Amendment No. 1 approved by the Board on April 2, 2003 (Board Report No. 03-100) amended the terms and conditions of Sections 10, 13 and 16 of the Agreement. Amendment No. 2 approved by the Board on February 16, 2005 (Board Report No. 05-49) amended Section 10 of the Agreement to change the date on which the Concessionaire was to complete the waterproofing of the seating deck from April 15, 2005 to April 15, 2006.

Amendment No. 3 was approved by the Board on February 18, 2011 and extended the term of the Agreement from ten (10) years to eleven (11) years (Board Report No. 11-058). The Agreement is set to expire on October 31, 2012.

Additional steps are needed in order to secure a qualified and experienced operator to maintain and operate the Greek Theatre Concession. The following steps in the process have been taken:

REPORT OF GENERAL MANAGER

PG. 3

NO. 12-227

On February 18, 2011, the Board approved the release of a Request for Proposals for a Consultant to Conduct a Best Business Practice Study of the Greek Theatre Concession (RFP) (Board Report No. 11-057). The RFP was released on April 11, 2011; seven proposals were received on October 25, 2011.

Staff reviewed the proposals and prepared Level I findings and with the assistance of the City Attorney determined that five proposers passed the Level I review.

Three panel members have been recruited to serve on the evaluation panel for the Level II review of the proposals. The panel is set to interview the proposers who passed Level I review in August 2012.

It is estimated that the RFP process will take another six months to complete, as the Level II evaluation is still to be completed and a consultant chosen and recommended to the Board. If the Board approves the recommendation, it will be sent to the Mayor's Office for review and approval, which can take up to eight weeks. If the Mayor's Office grants approval, the awarded consultant has up to 30 days to submit the remaining compliance documents outlined in the RFP and sign a contract with the Department.

Once the award of the contract is finalized, the chosen consultant will assist the Department in developing and administering a Request for Proposals for the Operation and Maintenance of the Greek Theatre Concession, which should take approximately one year and include time for the consultant to complete the work contracted by the Department. The Department will then need additional time to evaluate the proposals received, select an operator, and seek approval from the Board, the Mayor's Office, and the City Council. The Department will also need to prepare the Concession for the selected operator, including negotiating the terms of the next concession agreement. The entire process, including completion of the RFP for the consultant, could take up to three years.

The Department wishes to continue uninterrupted services to the public and to continue the revenue stream to the City from the operation while the processes described above are completed.

Staff recommends approval of the proposed Fourth Amendment to Concession Agreement No. 245 with Nederlander-Greek, Inc. to extend the term (until October 31, 2015) for three years while the Department completes the RFP process in order to receive the best possible proposals. The Department wishes to enter into a long-term agreement with an experienced and responsible operator, to ensure that a high level of continued service is provided to the public during the process, and to avoid a potential revenue shortfall to the Department.

Charter Section 1022

Los Angeles City Charter Section 1022 prohibits contracting out work that could be done by City employees unless the Board determines it is more feasible and/or economical to contract out the service.

REPORT OF GENERAL MANAGER

PG. 4

NO. 12-227

On June 21, 2012, the Personnel Department completed a Charter Section 1022 review (Attachment A) and determined that there are no City classifications with the expertise to perform essential aspects of the work involved in operating a mid-sized entertainment venue, including the ability to: book musical and cultural acts suitable for a venue the size of the Greek Theatre; perform food and beverage service business operations, including maintenance, in multiple locations at the venue; perform marketing for a mid-sized entertainment venue; and hire and train diverse types of staff, including ushers, parking lot attendants, and security. It is, therefore, more feasible and economical to secure these services through an independent contractor.

Charter Section 371

Due to the continued slow economic environment, the downturn in the concert touring industry, including a decline in audiences, and competition in the surrounding area, a competitive bidding process to find an operator for the Greek Theatre is not advantageous to the City while we are currently completing the RFP for the consultant to assist the Department, as described in this report.

Additionally, competition from local venues such as the Nokia Theatre and the Hollywood Bowl continues to draw acts away from the Greek Theatre. While the Greek Theatre showed growth in revenue between the 2010 and 2011 seasons, business has not yet stabilized, and it is difficult to predict how the 2012 season will compare. Overall between 2007 and 2011, gross revenue declined by 18.92%, from \$24,948,267 to \$20,228,755 (Attachment B).

During the period of the contract extension, staff will identify and work with an economic consultant with music-industry experience to assist in the development of a Request for Proposals that will include input from industry experts, the community, and the Greek Theatre Advisory Committee. After the release of the Request for Proposals, the economic consultant will assist the Department in administering the process and in selecting a qualified and experienced operator for award.

FISCAL IMPACT STATEMENT:

Approval of the Amendment to extend the Agreement will guarantee that the Department continues to receive a minimum of \$1.2 million in annual rent each year from the Greek Theatre Concession, of which 90% (\$1,080,000) will go to the Department's General Fund and 10% (\$120,000) to the Concession Improvement Account. The minimum rent is \$3.6 million for three years, of which 90% (\$3,240,000) will go to the Department's General Fund and 10% (\$360,000) to the Concession Improvement Account.

Report prepared by Désirée Guzzetta, Management Analyst II, Concessions Unit, Finance Division.

PERSONNEL DEPARTMENT CONTRACT REVIEW REPORT

1. Requesting Department: Department of Recreation and Parks
2. Contacts:

| | | | | | |
|-------------|-----------------------|-----------|---------------------|---------|---------------------|
| Department: | <u>Carol Jacobsen</u> | Phone No. | <u>213 202-3280</u> | Fax No. | <u>213 202-4311</u> |
| CAO: | <u>Wai Y. Lau</u> | Phone No. | <u>213 978-1795</u> | Fax No. | <u>213 473-7517</u> |
3. Work to be performed:

The Department of Recreation and Parks seeks services of a contractor for the operation and maintenance of the Greek Theatre in Griffith Park. The contract includes booking entertainment, food and beverage service, marketing, parking, and traffic control.

Is this a contract renewal? Yes No (Concession Agreement Number 245)
4. Proposed length of contract: Three years
5. (Renewal) Start Date: November 1, 2013
6. Proposed cost of contract (if known): Unknown (may generate revenue)
7. Name of proposed contractor: Nederlander-Greek, Inc.
8. Unique or special qualifications required to perform the work:

The contractor must have ability to book musical and cultural acts; be knowledge of 1) food and beverage concession; 2) County Health Department rules and regulations; 3) City ordinances, rules, and regulations; 4) entertainment industry, particularly concert tours; 5) hiring and training methods of staff, including ushers, parking lot attendants, and security; and 6) other incidental skills related to operating an entertainment venue.
9. Are there City employees that can perform the work being proposed for contracting?

Yes No

If yes,

 - a. Which class (es) and Department(s):
 - b. Is there sufficient Department staff available to perform the work? Yes No
 - c. Is there a current eligible list for the class(es)? Yes No Expiration Date:
 - d. Estimated time to fill position(s) through CSC process?
 - e. Can the requesting department continue to employ staff hired for the project after project completion? Yes No
 - f. Are there City employees currently performing of the work? Yes No
10. Findings

City employees DO NOT have the expertise to perform the work

City employees DO have the expertise to perform the work

Check if applicable (explanation attached) and send to CAO for further analysis

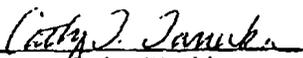
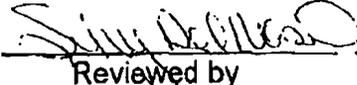
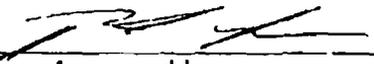
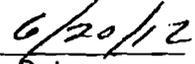
Project of limited duration would have to layoff staff at end of project

Time constraints require immediate staffing of project

Work assignment exceeds staffing availability

SUMMARY:

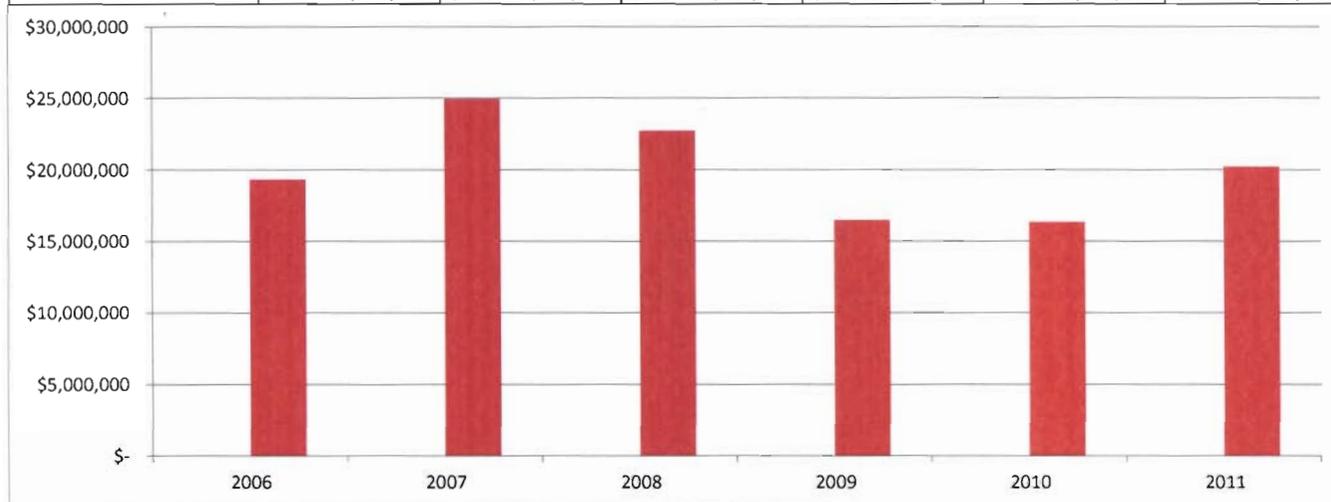
The Department of Recreation and Parks seeks to renew a contract with Nederlander-Greek, Inc. for full-service concert booking, food and beverage concessions, and maintenance of the Greek Theatre located in Griffith Park. In October 2010 a 1022 Review Report was completed. Staff identified several City classifications that could perform some of the work such as property maintenance, public relations, as well as crowd and traffic control. However, there are no City classifications that would provide comprehensive expertise in operating, maintaining, and marketing a concert venue.

| | | | |
|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
|  |  |  |  |
| Submitted by | Reviewed by | Approved by | Date |
| Cathy T. Tanaka | Shelly Del Rosario | Raul Lemus | |
| Sr. Personnel Analyst I | Sr. Personnel Analyst II | Chief Personnel Analyst | |

THE GREEK THEATRE CONCESSION

Concession Operator: Nederlander-Greek, Inc.
 Concession Agreement No: 245
 Term of Agreement: May 21, 2002 through October 31, 2011
 No. of Extensions: None
 Council District: 4
 Minimum Annual Rent Guarantee: \$1,200,000

| GROSS REVENUE | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|---------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Gate | \$ 12,815,764 | \$ 14,982,326 | \$ 14,250,951 | \$ 11,225,985 | \$ 9,987,114 | \$ 12,249,201 |
| Parking | \$ 842,636 | \$ 1,478,510 | \$ 1,211,210 | \$ 950,463 | \$ 953,234 | \$ 1,140,231 |
| Sponsorship | \$ 720,000 | \$ 814,400 | \$ 739,687 | \$ 131,000 | \$ 281,992 | \$ 665,218 |
| Food/Beverage | \$ 2,301,033 | \$ 3,757,345 | \$ 2,591,989 | \$ 2,125,063 | \$ 2,076,510 | \$ 2,476,979 |
| Merchandise | \$ 704,675 | \$ - | \$ 633,358 | \$ 484,301 | \$ 454,940 | \$ 648,985 |
| Other | \$ 1,959,335 | \$ 3,915,686 | \$ 3,323,012 | \$ 1,581,901 | \$ 2,597,437 | \$ 3,048,141 |
| TOTAL | \$ 19,343,443 | \$ 24,948,267 | \$ 22,750,207 | \$ 16,498,713 | \$ 16,351,227 | \$ 20,228,755 |



| RENT TO CITY | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|---------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Gate | \$ 1,025,261 | \$ 1,198,586 | \$ 1,140,076 | \$ 898,079 | \$ 798,969 | \$ 979,936 |
| Parking | \$ 50,558 | \$ 88,711 | \$ 72,673 | \$ 57,028 | \$ 57,194 | \$ 68,414 |
| Sponsorship | \$ 43,200 | \$ 48,864 | \$ 44,381 | \$ 7,860 | \$ 16,920 | \$ 39,913 |
| Food/Beverage | \$ 138,062 | \$ 225,441 | \$ 155,519 | \$ 127,504 | \$ 124,591 | \$ 148,619 |
| Merchandise | \$ 42,281 | \$ - | \$ 38,001 | \$ 29,058 | \$ 27,296 | \$ 38,939 |
| Other | \$ 117,560 | \$ 279,442 | \$ 199,381 | \$ 94,914 | \$ 155,846 | \$ 182,888 |
| TOTAL | \$ 1,416,922 | \$ 1,841,044 | \$ 1,650,031 | \$ 1,214,442 | \$ 1,180,816 | \$ 1,458,709 |

