

HOUSING AND REDEVELOPMENT AUTHORITY OF THE CITY OF SAINT PAUL, MINNESOTA

REPORT TO THE COMMISSIONERS

DATE: December 16, 2015

**REGARDING: RESOLUTION APPROVING CLARIFICATION AND APPLICATION OF HRA
BOARD INTENT OF CHANGES TO THE PALACE THEATRE USE
AGREEMENT; DISTRICT 17, WARD 2.**

Requested Board Action

Approval of the attached resolution clarifying intent of language changes to the Palace Theatre Use/Operating Agreement approved by the HRA Board ("Board"), and application of said changes.

Background

The Board adopted Resolution 15-2210 ("Resolution"), as amended, on December 9, 2015. The Resolution approved many actions related to the Palace Theatre project, among them the execution of a Use Agreement with Palace Theatre Operations, LLC ("Operator"). The key terms of the Use Agreement were summarized in Attachment F to the Resolution. The Board approved an amendment to the language in Attachment F relating to a potential payment due to the Operator from the HRA at the end of the initial 15-year term. Specifically, the Board approved inserting the phrase "less depreciation as defined by accepted accounting practices" after "capital improvements" in the phrase "... receive a payment equal to the cost of capital improvements made to the Theatre by the Operator..."

Attachment F was a summary of the terms of the Use Agreement. The Use Agreement has more precise, detailed language than that contained in the summary. HRA staff wants to make sure the Board's intent can be accurately expressed in the final language of the Use Agreement, and that the appropriate actions specified can be reasonably applied. The Use Agreement has four specific categories of things for which the Operator would be repaid, should the HRA not offer to extend the term of the Agreement:

1. The cost of the Operator Property Contribution – which is defined as the sound system, the stage lighting system, and the point-of-sale system – not removed by the Operator.

2. The cost of Privately Financed Enhancements – which is defined as enhancements to the Project paid for by the Operator – not removed by the Operator. These Enhancements, by definition, would all occur during the period before operation of the Theatre begins.
3. The cost of Capital Improvements paid for by the Operator during the term of the Use Agreement – defined as Capital Improvements not funded from the Capital Reserve Fund or paid for by the HRA.
4. The Bathroom Relocation / POS Costs paid by the Operator, which relates to the cost of moving bathrooms and adding points-of-sale that exceed the Project's contingency budget.

HRA staff believes that categories two through four above should be depreciated per the intent of the Board. In order to fairly apply the intent of the Board – that the amount that should be repaid to the Operator, in the event the HRA chooses not to renew the Use Agreement in year 15, be depreciated – and in order to define a method for doing so that is easily understood and can be reasonably applied in practice, HRA staff proposes to discount the costs listed above by 1/30 each year. This relates to a straight-line depreciation method tied to the useful life of the Palace Theatre upon completion of the Project.

Budget Action

Not Applicable

Future Action by City Council

Not Applicable

Financing Structure

Not Applicable

PED Credit Committee Review

Not Applicable

Compliance

Not Applicable

Green/Sustainable Development

Not Applicable

Environmental Impact Disclosure

Not Applicable

Historic Preservation

Not Applicable

Public Purpose/Comprehensive Plan Conformance

Not Applicable

Recommendation:

The Executive Director recommends the adoption of the attached resolution that clarifies the intent of the Board with regard to the amendment made to Resolution 15-2210 on December 9, 2015, and sets out a clear method for applying that intent to the Palace Theatre Use Agreement.

Sponsored by:

Commissioner Dave Thune

Staff:

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Attachments