

LEGISLATIVE DIGEST

[Lease Amendment - Coit Tower, LLC - Lease and Operation of Coit Tower]

Ordinance approving the amendment to the lease with Coit Tower, LLC, for the operation of Coit Tower to allow a service charge for online elevator ticket sales in addition to the general fees for elevator tickets provided in Park Code, Section 12.06, allow the sale of food and beverage from a kiosk exterior to Coit Tower on a part of a vacated street or other space designated by the Recreation and Park Department General Manager if the street is not vacated, provide an ongoing rent credit of up to \$9,500 per month for increased mural protection staffing, provide a short-term rent credit of up to \$7,000 per month on account of delay in identifying a food service premises, allow a retroactive and ongoing credit for credit card fees associated with elevator tickets purchased by visitors, and amend the lease in certain other respects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Amendments to Current Law

The City and County of San Francisco (City) owns, and the Recreation and Park Department (Department) operates and maintains, the land and improvements commonly known as Coit Tower. In 1934, a group of artists supported by the Public Works of Art Project, a forerunner of the Works Progress Administration, painted a series of murals portraying daily life in California during the Great Depression. The murals constitute the most important asset of the building. The City and Coit Tower, LLC (Tenant) entered into a lease, dated February 1, 2014 (the "Lease"), for the lease and management of the elevator and bookstore operations at Coit Tower. The Lease also requires Tenant to protect the murals and implement a docent program under which a docent would be on duty during all hours Coit Tower is open to the public to greet visitors, educate guests about the murals, inform guests about rules governing mural viewing, and observe visitors in the lobby and remind them of the viewing rules. The Lease allows Tenant a rent credit against its monthly rent for docent services. Under the Lease, the Recreation and Park Department is required to examine the demand for and desire for food and beverages services at or adjacent to Coit Tower.

This ordinance approves and authorizes certain proposed amendments to the Lease. A description of the more substantive amendments follow:

- The staffing required to protect the murals is greater than originally contemplated by the Lease. A proposed amendment to the Lease includes a rent credit in the amount of \$9,500 per month for the financial burden of providing additional staff.

- The Department has identified part of Greenwich Street as a desirable location for a kiosk for food and beverage services. Such location could not be added to the premises until completion of a street vacation. The ordinance approves and authorizes an amendment that adds that portion of Greenwich Street to the premises if the Board vacates that portion of the street in the future, and authorizes the General Manager of the Department to select and add to the premises other nearby space for the food and beverage services if Greenwich Street is not vacated, subject to environmental review in compliance with the California Environmental Quality Act. The proposed amendment also includes a rent credit to account for the financial impacts to Tenant for the delay in selecting a location for the food and beverage services. The rent credit is \$5,000 per month, retroactive to December 1, 2014, ending on the effective date of the Lease amendment, and \$7,000 per month from the effective date of the Lease amendment to the sooner of: (1) July 31, 2017; (2) 60 days after the additional premises are added; or (3) the first day of Tenant's sale from the additional premises.
- The Tenant pays percentage rent on gross receipts from elevator ticket sales. The Tenant must pay credit card fees in association with visitors purchase of elevator tickets, which are not excluded from the definition of "gross receipts" in the Lease. Therefore, the tenant has been absorbing the cost of the credit card fees. The proposed amendment to the Lease would modify the definition of "gross receipt" to exclude such fees and provide a credit against monthly rent in the amount of the credit card fees, commencing, retroactively, as of July 1, 2014.
- The Tenant currently charges the fee for admission to Coit Tower set in Section 12.06 of the Park Code. However, the Park Code does not set an additional convenience fee or service charge for online purchases of tickets. The Department has determined that the ability of guests to purchase tickets online would enable the Tenant to pre-sell tickets, which may help to control guest flow and encourage sales during off-peak hours. The proposed amendment would allow the Tenant to charge a service charge of \$1.00 for online ticket sales, as an addition to the fee set by ordinance in the Park Code.

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