

Communication from Public

Name: Noel Weiss

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Council File No: 19-0126-S2

Comments for Public Posting: See Attached Letter in Opposition to Proposed Council Action

NOEL WEISS

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May 5, 2020

**MEMBERS OF THE LOS ANGELES
CITY COUNCIL**

Via Email

Los Angeles City Hall
200 North Spring Street
Los Angeles, California 90012

RE: ITEM NO. 27 – AGENDA FOR TUESDAY, MAY 5, 2020
COUNCIL FILE NO. 19-0126-S2 – “LEASE” WITH PATH

PROJECT SITE: 3210-3248 RIVERSIDE DRIVE
EXHAUSTION OF ADMINISTRATIVE REMEDIES LETTER

Dear Councilmembers:

I write on behalf of Friends of Waverly, Inc. ***in opposition*** to the pending motion for authority sought by the Department of General Services to negotiate a “lease” (which is really an unlawful “sub-lease” with PATH to operate a bridge housing facility on the grounds of Griffith Park, at 3210-3248 Riverside Drive, Los Angeles, California.

The grounds of the opposition are as follows:

1. The agenda item violates the Brown Act because insufficient notice was given to the public to be able to comment on this proposal;
2. The Department of Recreation & Parks never authorized the City to sub-lease any Rec. & Parks property to a third-party; or to operate any facility located on Rec. & Parks property.
3. The term of the proposed “sub-lease” (up to five years) exceeds the three-year maximum for the “license” the Board did (unlawfully) approve and (unlawfully) gave the City (and the City only, with no right of sub-lease) to operate the bridge shelter facility;

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4. The proposed “sub-lease” violates Charter Section 594 because it is a use of park property, over which the Department of Recreation & Parks has exclusive control, for a purpose which is not authorized by the Charter. Park property may only be used for park purposes and recreational purposes. This Griffith Park Bridge Shelter Facility is neither;
5. The Department of Recreation & Parks receives zero rent for the use of its property. This also violates the Charter. The Board never approved such a give-a-way of the use of its property;
6. There was no bidding for this project. Charter Section 595 authorizes the absence of bidding only where the proposed use is for park purposes. As this use is not for recreational or park purposes, competitive bidding is required. There was no competitive bidding for this (unlawful) “sub-lease”. Awarding a contract to PATH, a City-Hall insider and favorite of the Mayor is therefore unlawful;
7. A copy of the proposed “sub-lease” is not attached. The public is prejudiced thereby;
8. Public health, welfare, and safety are compromised because there is no provision of adequate security of the facility, the surrounding community, or the park area around the Griffith Park Bridge Shelter facility. Griffith Park law enforcement is handled by the Park Rangers. No provision is made for the compensation of the Department for any services required of the Rangers. PATH just provides one security guard. That is clearly inadequate. There are no funds for LAPD to patrol the area, contrary to the promises made by Councilman Ryu. The Mayor’s budget provides only for overtime funds to LAPD to patrol Bridge Shelter Sites. It is not clear whether that includes this Griffith Park Bridge Shelter Facility, and if so, to what extent, because the funds allocated are for over-time. In short, public safety is compromised; Griffith Park safety and protection is compromised; and PATH is not required to provide any specifics by way of insurance to back its promise of indemnity; and it is not clear that PATH has the financial resources to indemnify either the City or the Department of Recreation & Parks, whose interests are not protected at all by this proposal. What is required, at a minimum, is an “MOU” (Memorandum of Understanding) between the City and the Department of Recreation & Parks on how Griffith Park and the public visitors to Griffith

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9. The proposal is completely lacking in any mention of the metrics or standards by which PATH's performance as operator (assuming the proposed "sub-lease" is lawful, which it is not) is to be measured. This is particularly relevant because (i) the City is broke; (ii) the Mayor's budget commits zero dollars (\$0) to the operation of this facility (all the funds to construct the facility come from an HHAP one-time grant which is over-subscribed by at least \$15 Million), which (ii) unlawfully were "borrowed" from the Contingency Reserve in December, 2019, and in February, 2020, and which cannot be repaid in full because they have been over-subscribed, in anticipation of being repaid (a clear abuse of the Contingency Reserve Fund protocol), yet (iv) the City is supposed to pay to maintain the building's systems (the Mayor's budget provides zero dollars to meet this commitment). In addition, the City remains on the hook to have to repay the state for the \$7 Million it has spent on constructing the facility because the City's application to the State falsely stated the monies would be used for a bridge shelter facility when, after 3 years, the City plans to convert the facility to a Senior Citizens Center (a clear misuse of state funds and a "bait-and-switch" on the state;
10. The Department of Recreation & Parks never approved of the free use of its property by an unidentified third-party, on the terms stated in this proposal, or otherwise.
11. The Department of General Services is not authorized in law to sign "Service Provider Lease Agreements", be it with PATH, or any other Third-Party. Any "consent" obtained by the City from the Board of Recreation & Parks Commissioners, assuming the Board's action to have been lawful, which it was not, was premised on the project costing \$4,647,000. The cost of the Griffith Park Bridge Shelter Project is now at \$7,046,255, which is a 51.63% budget-buster. No discussion or approval was ever given to a project which exceeded the budget by over 50%; nor was any approval given for the City to grant a "sub-lease" for zero rent; nor is the Board even empowered under the Charter to permit park property to be used for non-park or non-recreational Purposes; be it to PATH, or any other third-party. The potential liability exposure to the Department is massive. No provision for insurance is noted; just an unsecured promise of indemnity. The rights of the Department of Recreation and Parks are being 100% compromised by this unlawful action. No provision is made for the payment of the extra security needed by the Park Rangers to protect the park and the public.

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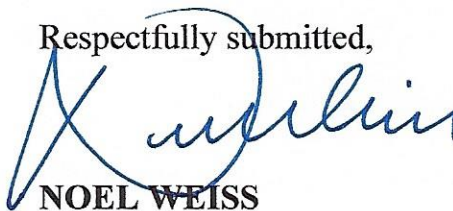
This proposed "sub-lease" is a sloppy, maladministered, improvident, unlawful action. It must be rejected by the Council.

In the absence of the matter being continued and/or the proposal and authority being rejected, suit will be brought to void out the Council's action as an abuse of discretion, as an unlawful action, and an error of law.

Before the Council moves forward, (i) the matter should be properly agendized, and (ii) the City Attorney (who is now a declared candidate for Mayor) should provide, as he often does, a legal opinion declaring the Council's action in this instance lawful and stating the reasons why.

Thank you for your consideration of the points and issues raised in this letter.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Noel Weiss", is written over a circular stamp. The signature is fluid and cursive.

NOEL WEISS

NW: nww
0505-L1. CC

Communication from Public

Name: Noel Weiss

Date Submitted: 05/05/2020 07:33 AM

Council File No: 19-0126-S2

Comments for Public Posting: This comment is being submitted in Opposition to the proposed action. Because the earlier public comment was not confirmed as having been submitted, this comment is intended to supplement the public comment submitted earlier. A separate letter in Opposition has also been submitted for the sake of completeness. The Council should reject this proposal, to "sub-lease" the use of the Griffith Park Bridge Shelter Facility to PATH, on the following grounds: 1. This matter was not timely presented to the public and thus should be continued. As such, it violates the Brown Act; 2. The proposal violates Section 594 of the Charter because it permits the use of Recreation and Parks property for non-recreational or non-park purposes. The Charter states that Park property can only be used for recreational and park purposes and does not allow any other use; 3. There was no competitive bidding for this (unlawful) "sub-lease". Charter Section 595 only contemplates non-bidding where the use is strictly for park and recreational purposes. As such, this "sub-lease" violates Charter Section 595. 4. The proposed "sub-lease" was never authorized by the Department of Recreation and Parks Board; 5. The proposed "sub-lease" pays the Department of Recreation and Parks zero dollars. This is wrong and contravenes the Charter protections which preserve park property for recreational and park purposes. The Department of Recreation and Parks is entitled to fair compensation for the use of its property. Nothing in the protocols to date provide for such compensation, either from the City, or from the proposed "sub-leasee", PATH. This is wrong and prejudicial to the Department. The Board of Recreation and Park Commissioners never approved any such protocol. This authorization and proposed "sub-lease" is therefore unlawful and should not be approved by the Council; 6. There is no provision for compensating the Rec and Parks Department for the costs of the Park Rangers which are needed to protect public safety and Griffith Park assets. The health, welfare, and safety of the public using the Griffith Park park and recreational facilities is compromised because LAPD has no jurisdiction over the Park, and there are zero dollars in the Mayor's budget for routine patrols near the facility to protect the public; 7. The situation as currently proposed is fraught with liability for both the City and the Department of Recreation & Parks, whose interest is not protected

by this proposal. If the Board were to have acted on this proposal, the Board would have provided for decent and proper protection against liability claims occasioned by the misuse or negligent use of the Griffith Park Bridge Shelter Facility by third parties. The City owes a duty of indemnity to the Department; it has not been forthcoming. No MOU (Memorandum of Understanding) has been executed or proposed between the City and the Department of Recreation & Parks. This is mismanagement and maladministration, in direct contravention of the foregoing Charter provisions (Sections 594 and 595). 8. The indemnity provisions in the proposed "sub-lease" are inadequate. They are not backed by any insurance policy to be obtained by PATH where both the Department of Recreation & Parks and the City are named as beneficiaries. The amount of insurance is not specified. The proposed indemnity is not secured in any way. This is wrong. 9. There are no metrics to measure the adequacy or competence of PATH's performance. This is wrong and it is incompetent. 10. There proposed "sub-lease" exceeds the three-year maximum "license" issued only to the City, not to third-parties or City designees, which the Department purported to authorize. 11. The project which the Department believed it was authorizing (unlawfully for the reasons noted above) was for \$4,647,000. The project cost now stands at \$7,046,255, which is a 51.63% over-run. It cannot be reasonably inferred that the Board ever authorized such a large budget-over run. The project should be rejected. . . and/or the matter continued for further consideration after the City Attorney has opined on the City's and the Department's liability exposure.