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## AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** J. Nicholas Williams  
Director, Parks &  
Recreation

**SUBJECT:** Peter Pan Nursery School Inc.  
License Agreement

**DATE:** November 14, 2017

City Administrator Approval

Date:

11/21/17

### RECOMMENDATION

**Staff Recommends That The City Council Adopt An Ordinance Authorizing The City Administrator To Execute A License Agreement With Peter Pan Cooperative Nursery School, Inc. To Operate A Cooperative Nursery School At Maxwell House And The Adjacent Play Area At Maxwell Park For Five-Year Term With A License Fee of \$1,123.20 Per Month; And Amend The License Agreement For Two Consecutive Five-Year Terms Without Returning To Council.**

### EXECUTIVE SUMMARY

Adoption of the proposed ordinance by City Council will authorize the City Administrator to execute a License Agreement with Peter Pan Cooperative Nursery School, Inc. (Peter Pan) for the continued non-exclusive use of Maxwell House and the adjacent play area at Maxwell Park, located at 4618 Allendale Avenue, to operate a cooperative nursery school for children ages two to six years old for a five-year term with a license fee of \$1,123.20 per month. The proposed ordinance authorizes the City Administrator to amend the License Agreement to extend the Agreement for two consecutive five-year terms without returning to Council, provided, that the City's terms and conditions are satisfied.

Maxwell House is owned by the City of Oakland and Oakland Parks and Recreation (OPR) is the custodial agency of the real property. Peter Pan is a California 501(c)(3) non-profit corporation dedicated to providing high quality preschool education for Oakland families, with over 90 percent that reside in Oakland. Use of the property by Peter Pan is September through July, 8:30 a.m. to 4:30 p.m., two week-day evening each week and two weekend days per month for meetings and two weekend days, Saturday and Sunday every weekend for stewardship and cleaning of the school and park area at no charge.

Item: \_\_\_\_\_  
Life Enrichment Committee  
December 5, 2017

## **BACKGROUND / LEGISLATIVE HISTORY**

Peter Pan was originally started by a group of Mills College students in 1947 and has been located at Maxwell House since 1983. As a cooperative nursery school, families are directly involved in supporting the school's operations by participating in various activities. Peter Pan's involvement serves to keep costs down and increases access to the school's services to middle and low income families. By authorizing the License Agreement, the Oakland community will continue to receive benefits in the form of preschool care, parent education, and community involvement.

In 1990, City Council approved staff's recommendation to develop a ten- year Lease Agreement for Peter Pan's continued use of the Maxwell House and the adjacent playground area.

During 2000 and 2001 Peter Pan raised over \$50,000 and its volunteers and parents contributed hundreds of volunteer hours to build a new play structure in Maxwell Park. The structure is used by the Peter Pan during its operating hours but is always open to neighborhood park users.

In 2006, a License Agreement was granted to Peter Pan for a three-year term with two consecutive three-year options to renew. The second and final extension of the Agreement expired on April 30, 2015.

## **ANALYSIS AND POLICY ALTERNATIVES**

Peter Pan currently serves, on average, 24 to 29 children a day in its nursery school and after care programs. Tuition ranges between \$262 and \$378 per month, per child depending on the number of school days in a month. Peter Pan follows the Oakland Unified School District calendar and holidays, with a school day that begins at 9:00 a.m. and ends at 12 noon. There is an optional afternoon program available to families that extends to 2:45 p.m.

In addition to its children's programs, Peter Pan provides the following:

- Monthly parenting education classes
- Cleaning services to the building and the surrounding park through volunteer hours from staff and parents
- Engagement of students from Merritt College, Mills College and local Oakland high schools
- Collaboration with Children's Hospital of Oakland for Families Helping Families through a gift drive. Families are referred by Alameda County Social Services to provide food to needy families during the holidays
- Hosts a Virtual Food Drive for the Alameda County Food Bank with a goal to have 100% of families contribute
- Participation in the Maxwell Park Neighborhood Family Association
- A scholarship program and opportunities for parents to pay tuition through a work exchange in the extended care program

The proposed License Agreement allows Peter Pan use of the Maxwell House building and the adjacent play area at Maxwell Park for activities related to its mission to provide high quality preschool education during the specified hours that include usage of the facility for its governing committee meetings, volunteer work parties, and staff workgroup meetings.

Under the terms of the proposed Agreement, key provisions include the following:

Incremental license fee increases adjusted annually based on the relative percentage change in the Consumer Price Index (CPI) with the annual adjustment not to exceed 8% or be less than 4%.

### **FISCAL IMPACT**

Under the proposed Agreement, Peter Pan shall pay in advance a monthly license fee of \$1,123.20, an \$83.20 increase from the current license fee of \$1,040.00. The license fee is deposited into OPR's Self-Sustaining Fund (1820); OPR Director's Unit (501110); Miscellaneous Concession Account (44519), Project Account (1000012); and Central Administration Program (NB01).

Peter Pan will be responsible for providing their own cleaning services including litter pickup and general cleaning in the surrounding park, utilities (water, gas and electric), and phone and internet services to Maxwell House at no cost to the City.

OMC Section 2.42.110 provides that the value of in-kind services in lieu of cash rent (license fees) provided by lessees (licensees) to the City or the community at large, including property security and maintenance, and social and cultural benefits to the community, may be considered by the Council in making a finding that the lease (license) of property for less than its fair market rental (license) value is in the best interests of the City.

Fair Market Value for rent of the space is estimated to be \$3,717.00 monthly or \$44,604.00 annually. In-kind services provided to Oakland citizens by Peter Pan are valued at \$38,040.60 annually based on 1,910 hours of in-kind cleaning services of the building and park cleanup (**Attachment A**). Peter Pan is providing valuable in-kind services that include over 1,500 hours a year of daily cleaning of Maxwell House, i.e., playrooms, restrooms, kitchen, basement area, and surrounding outside spaces; cleaning the lower and upper play area, garden/front entrance and walk areas and clearing glass and debris at Maxwell Park; and social and cultural benefits to the community at large by serving and maintaining neighborhood relationships through regular communications with Allendale and Fleming neighborhood associations; maintain a daily presence increasing property security, engage students from Merritt College, Mills College and volunteers from local Oakland high schools and collaborate with Children's Hospital of Oakland and Alameda County Food Bank.

OPR recommends that the City Council make a finding and determination that the lease of the property for less than fair market value is in the best interest of the City.

Calculation of Services and Rental Values

<b>Service / Real Estate</b>	<b>Annual Value of Peter Pan Provided Services</b>	<b>Annual Value of City Provided Facility Use</b>
Fair Market Rent Value	-	\$44,604.00
Rent/License	\$13,478.40	-
Cleaning services of the building and park litter cleanup (estimated in-kind maintenance services)	\$24,562.20	
<b>Total Estimated Value</b>	<b>\$38,040.60</b>	<b>\$44,604.00</b>

The City maintains responsibility for major repairs over \$50,000 that would be included in the Capital Improvement Project process for funding consideration and prioritization. The City is responsible for structural emergency repairs defined as plumbing, main sewer line breakage, underground water lines, and underground electrical system repairs, or incidents that are hazardous to the safety and welfare of the patrons and the public or the condition of the property.

**PUBLIC OUTREACH / INTEREST**

This item did not require any additional public outreach other than the required posting of the City Council Report on the City's website.

**COORDINATION**

OPR coordinated with the Office of the City Attorney, Budget Bureau, and Real Estate Services Division while preparing this report.

**SUSTAINABLE OPPORTUNITIES**

**Economic:** The continued operation of Peter Pan Cooperative Nursery School will provide an affordable service for children and parents participating at the school and tuition assistance is available to families needing financial support.

**Environmental:** Peter Pan Cooperative Nursery School's stewardship of Maxwell Park increases the cleanliness and safety of the park. City hazardous material policies will be adhered to by SNS during their use of the property.

**Social Equity:** The nursery school services are convenient, accessible and available offering a safe and diverse environment to parents with children from pre-kindergarten to six years old. Tuition assistance is available for Oakland residents.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council adopt an ordinance authorizing the City Administrator to execute a License Agreement with Peter Pan Cooperative Nursery School, Inc. for the continued non-exclusive use of Maxwell House and the adjoining play area for the purposes of operating a nursery school for a five-year term with two consecutive five-year options to renew without returning to Council.

For questions regarding this report, please contact Gail McMillon, Office Manager, at (510) 238-3186.

Respectfully submitted,



J. NICHOLAS WILLIAMS  
Director, Parks & Recreation

Reviewed by:  
Dana Riley, Assistant Director

Prepared by:  
Gail McMillon, Office Manager

*Attachments (1):*

*A: Peter Pan In-Kind Services*

Peter Pan Cooperative Nursery School  
In-Kind Services to the City of Oakland

Below is a list of in-kind contributions and community enrichment efforts that Peter Pan does every year.

Peter Pan provides monthly parent education classes over the school year on a range of topics including Positive discipline, Kindergarten readiness, Temperament, Occupational Therapy tools young children, Race, Gender, and Ages and stages. The required monthly meetings also focus on running independent cooperative school business, teaching skills, educating parents, building community, and being proud citizens of Oakland.

Peter Pan cares for the Maxwell House building, outside play area and Maxwell Park through a variety of efforts listed below. Estimates of in-kind maintenance work is based on a pay range of the City's \$12.86 minimum wage to \$20.

- 1,520 hours of maintenance (\$19,547 - \$30,400). Each family provides 40 hours of housekeeping maintenance every year. Parents care for basically every inch of the Maxwell House building, the basement area, and surrounding outside spaces. Of this total, three families are specifically assigned the public-facing responsibility of the lower park, upper park, and garden/front entrance areas.

- 80 hours of weekend custodial upkeep (\$1,004 - \$1,600). In addition to daily and weekly care, a staff member provides in-depth cleaning for two hours every weekend.

- 390 hours of inside, upper and lower park maintenance (\$4,898 - \$7,800). Every family provides an additional 10 hours of maintenance work over the course of our four weekend Work Parties.

- Daily cleaning of Maxwell Park lower and upper play areas. On school days, it is a working parents' responsibility to clear the park of glass and debris and sweep the walking paths.

- Daily cleaning of interiors. Maxwell House playrooms, bathrooms, and kitchen are cleaned at the end of each preschool day.

- Weekly 4 hour parent Work Day. Each parent is a teacher volunteer for four hours a week for 40 weeks. There are two paid staff (Director and Assistant director) with seven parents a day comprise a major portion of the teaching staff.

Peter Pan engages students from Merritt College and Mills College and has volunteers from local Oakland high schools.

Each winter, Peter Pan collaborates with Children's Hospital of Oakland for Families Helping Families. Peter Pan coordinate a gift drive for families referred to them by social services. In the Spring, Peter Pan hold a Virtual Food Drive for the Alameda County Food Bank. The goal is for both to have 100% of our families contribute.

Peter Pan is an active participant in the Maxwell Park neighborhood and maintain relationships through regular communication with both neighborhood associations on Allendale and Fleming. Peter Pan maintains a happy and healthy presence on the grounds on a daily basis. Peter Pan also maintain ties with their alumni in Oakland, strengthening local schools and community involvement.

On a broader scale, Peter Pan's goal is to educate parents in teaching children, acceptance, advocacy, and volunteering in schools. To be as inclusive as possible, Peter Pan has a scholarship program and provide opportunities for parents to pay tuition through a work exchange in the extended care program. Peter Pan strives to provide an increasingly rare, affordable preschool experience by utilizing total parent participation in order to build a strong, lasting community and reduce monetary fees.

2017 NOV 21 PM 3: 58

OAKLAND CITY COUNCIL

  
City Attorney

ORDINANCE No. \_\_\_\_\_ C.M.S.

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**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A LICENSE AGREEMENT WITH PETER PAN NURSERY SCHOOL, INC. TO OPERATE A COOPERATIVE NURSERY SCHOOL AT THE MAXWELL HOUSE AND THE ADJACENT PLAY AREA AT MAXWELL PARK FOR A FIVE-YEAR TERM WITH A LICENSE FEE OF \$1,123.20 PER MONTH; AND AMEND THE LICENSE AGREEMENT FOR TWO CONSECUTIVE FIVE-YEAR TERMS WITHOUT RETURNING TO COUNCIL**

**WHEREAS**, the City of Oakland is the fee simple owner and Oakland Parks and Recreation (OPR) is the custodial agency of the real property commonly known as Maxwell House and the adjacent play area at Maxwell Park, located at 4618 Allendale Avenue, Oakland, California; and

**WHEREAS**, Peter Pan Nursery School, Inc. (hereinafter referred to as "Peter Pan") was established in 1947 as a parent cooperative nursery school; and

**WHEREAS**, Peter Pan has operated a cooperative nursery school at Maxwell House for more than 30 years; and

**WHEREAS**, Peter Pan is classified under the Internal Revenue Code, Section 501(c)(3) as a tax exempt, public benefit corporation; and

**WHEREAS**, Peter Pan desires to continue use of Maxwell House and the adjacent play area at Maxwell Park for the purposes of operating a cooperative nursery school; and

**WHEREAS**, under the proposed license agreement, Peter Pan will occupy Maxwell House five days a week, September through July from 8:30 a.m. to 4:30 p.m.; and

**WHEREAS**, under the proposed license agreement, Peter Pan is authorized to use Maxwell House for two weekday evenings each month and two times a month on the weekends for meetings, at no cost; and

**WHEREAS**, under the proposed license agreement, Peter Pan is authorized to use Maxwell House and adjacent park two weekend days, Saturday and Sunday, every weekend, for stewardship and cleaning of the school and park area at no cost; and

**WHEREAS**, City Administrator shall have the authorization to amend to extend the Agreement for two consecutive five-year terms on the same conditions as described in the Agreement; and

**WHEREAS**, Peter Pan shall provide cleaning services to the building and adjacent park; and electricity, gas, telephone and internet services to the building; and



**WHEREAS**, Peter Pan shall not make any improvements or adjustments at the property without written approval by the City Administrator; and

**WHEREAS**, Peter Pan agrees to pay the City a monthly fee of One Thousand One Hundred Twenty-Three Dollars and Twenty Cents (\$1,123.20) for each month of use as set forth in the Agreement, payable on the first of each month; with annual increases adjusted each year based on the relative percentage change in the Consumer Price Index (CPI) not to exceed 8% per year and not less than 4% per year; and

**WHEREAS**, Peter Pan shall comply with the City's Special Event Access for People with Disabilities as stated in the Declaration of ADA Compliance for Facility Use Agreements and Other Special Events Agreements; and

**WHEREAS**, Oakland Municipal Code ("OMC") Section 2.42.100 provides that leases (including licenses) of City property require approval by ordinance; and

**WHEREAS**, OMC Section 2.42.110 provides that the value of in-kind services in lieu of cash rent (license fees) provided by lessees (licensees) to the City or the community at large, including property security and maintenance, and social and cultural benefits to the community, may be considered by the Council in making a finding that the lease (license) of property for less than its fair market rental (license) value is in the best interests of the City; and

**WHEREAS**, Peter Pan is providing valuable in-kind stewardship services that include over 1,500 hours a year of daily cleaning services of Maxwell House, i.e., playrooms, restrooms, kitchen, basement area, and surrounding outside spaces; cleaning the lower and upper play area, garden/front entrance and walk areas and clearing glass and debris at Maxwell Park; and social and cultural benefits to the community at large by serving and maintaining neighborhood relationships through regular communications with Allendale and Fleming neighborhood associations; maintain a daily presence increasing property security, engage students from Merritt College, Mills College and volunteers from local Oakland high schools and collaborate with Children's Hospital of Oakland and Alameda County Food Bank; and

**WHEREAS**, OPR recommends that the City Council make a finding and determination that the lease of the property for less than fair market value is in the best interest of the City.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The Oakland City Council authorizes the City Administrator to execute a license agreement with Peter Pan Nursery School Inc. to operate a cooperative nursery school for a five-year term as described in this resolution, and amend the license agreement for two additional five-year terms without returning to Council.

**SECTION 2.** The City Administrator, or his or her designee, is hereby authorized to approve any subsequent amendments, modifications, or extensions of said agreement, without returning to Council, except those increasing the term of the agreement beyond the two five-year terms.

**SECTION 3.** Pursuant to OMC section 2.42.110 and based on the value of the in-kind services provided by Peter Pan as discussed above and in the City Administrator's report accompanying this Ordinance, the City Council hereby finds that the license of the Maxwell House and adjacent

**SECTION 3.** Pursuant to OMC section 2.42.110 and based on the value of the in-kind services provided by Peter Pan as discussed above and in the City Administrator's report accompanying this Ordinance, the City Council hereby finds that the license of the Maxwell House and adjacent play area at Maxwell Park for less than its fair market value under the terms of this Ordinance is in the best interest of the City.

**SECTION 4.** The proposed license agreement shall be approved as to form and legality by the Office of the City Attorney and placed on file in the Office of the City Clerk.

**SECTION 5.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 6.** This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN,  
and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

## NOTICE AND DIGEST

**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A LICENSE AGREEMENT WITH PETER PAN NURSERY SCHOOL, INC. TO OPERATE A COOPERATIVE NURSERY SCHOOL AT MAXWELL HOUSE AND THE ADJACENT PLAY AREA AT MAXWELL PARK FOR A FIVE-YEAR TERM WITH A LICENSE FEE OF \$1,123.20 PER MONTH; AND AMEND THE LICENSE AGREEMENT FOR TWO FIVE-YEAR TERMS WITHOUT RETURNING TO COUNCIL**

This Ordinance would authorize a license agreement with Peter Pan Nursery School, Inc. to use Maxwell House and the adjacent play area at Maxwell House Park and operate a cooperative nursery school for a five-year term with a license fee of \$1,123.20; and amend the license agreement for two five-year terms, adjusted each year based on the relative percentage change in the Consumer Price Index (CPI) not to exceed 8% per year and not less than 4% per year.