File No. 171322

Resolution authorizing and approving an Amendment to Lease with BGCA Management, LLC, a Delaware limited liability company, for Bill Graham Civic Auditorium, at 99 Grove Street; increasing monthly base rent to $25,000; requiring tenant to be responsible for all utilities and a minimum of $10,250,000 in building improvements, new participation rent calculation, and other changes as set forth in Amendment; with no change to the term length to expire on December 31, 2030, to commence upon approval by the Board of Supervisors and Mayor.

Whereas, on July 1, 2010, the Mayor and Board of Supervisors approved Resolution No. 289-10 authorizing a lease of the Bill Graham Civic Auditorium ("Building") located at 99 Grove Street to BGCA Management, LLC ("Tenant") for a term of approximately 20 years, with two five-year extension options, as a concert and special events venue ("Lease"); a copy of the Lease and Resolution No. 289-10 are located in Board File No. 100649; and

Whereas, the Lease includes: (i) an expiration date of December 31, 2030, subject to Tenant’s two options to extend, each for an additional five years, at fair market rent; (ii) base rent of $8,333.33 per month, increased by 2.5% each year subject to a rent abatement period during the construction of Initial Improvements; (iii) participation rent equal to the sum of (A) 50% of net naming rights revenue (from naming the internal arena, not the Building) in excess of $500,000, (B) $5 per ticket, increased each year per CPI, for each ticket sold in excess of 337,000 per year, and (C) $2,500, increase each year per CPI, for each corporate event, subject to renegotiation after Lease Year 10; and, (iv) acceptance of the Building "as is" without representation or warranty; and

Supervisor Kim

Board of Supervisors
WHEREAS, Since 2010, Tenant has not received any naming rights revenue and has only sold over 337,000 tickets one year in 2016 to trigger those elements of participation rent; and

WHEREAS, The Lease requires Tenant to make certain interior renovations and capital improvements to the Building in three phases (the “Initial Improvements”), as set forth in the Lease and exhibits attached to it, and to spend at least $10,000,000 on the Initial Improvements; and

WHEREAS, The City has granted several extensions for the performance of the required improvements, and as of the date of the Amendment to Lease, Tenant has performed approximately $564,475 of the agreed upon required capital improvements, together with other repairs and upgrades for a total City approved improvement expenditure of approximately $1,598,803; and

WHEREAS, Under the Lease, the City retains the right to use the Building 50 days per year for civic events and other City purposes; the City is not required to pay rent, but is required to pay for the costs of use, such as cleaning, security during these City events; and

WHEREAS, During the time period between 2010 and the present, the City has not used more than 24 City days in any one year period; and

WHEREAS, The Lease requires Tenant to pay for all utilities in connection with Tenant’s use of the Building, but if Tenant’s utility costs exceed $200,000, as adjusted by CPI, in any Lease year, then Tenant receives a rent credit of 50% of such excess costs; and

WHEREAS, As a result of significant utility rate charges since lease negotiations nearly a decade ago, Tenant has received a rent credit for excess utility costs for each year since 2011, resulting in a rent credit of over $500,000 or five years of current base rent; and
WHEREAS, After several years of experience hosting concerts and other events in the
Building, Tenant has proposed converting that portion of the Building presently known as Polk
Hall into an approximately 1,200 seat club/small concert hall; and

WHEREAS, The City Administrator, as Landlord, is willing to allow Tenant to construct
the proposed small venue in the Building; and

WHEREAS, The Real Estate Division has negotiated an amendment to certain
sections of the Lease in substantially the form on file with the Clerk of the Board of
Supervisors in File No. 171322, which is hereby declared to be a part of this Resolution as if
set forth fully herein (the “Amendment to Lease”) to allow the construction of a smaller venue
in Polk Hall, increase in rent, change the terms of participation rent, require Tenant to pay all
utilities without any rent credit, and require Tenant to make certain improvements in the
Building; and

WHEREAS, Under the Amendment to Lease, base rent shall increase to $25,000 per
month from the current $9,765.59 per month; and

WHEREAS, Under the Amendment to Lease, participation rent for naming rights
remains the same, City’s per ticket revenue has been deleted, and Tenant shall pay to City
$3,500 for each corporate event and other Non-Ticketed Events held in the main auditorium
and $2,500 for each Non-Ticketed Event held solely on or in one or more of the halls (i.e., the
new Polk Hall) for which Tenant receives revenue; these amounts to increase yearly in
accordance with a CPI adjustment; and

WHEREAS, Under the Amendment to Lease, those sections related to the Initial
Improvements have been deleted and substituted with Tenant performing at least
$10,250,000 in Building Improvements, within three to ten years, including: (i) $4,000,000 for
Polk Hall Improvements, (ii) at least $3,500,000 for Main Arena Improvements, (iii) at least
$750,000 for Freight Elevator Work; (iv) at least $1,000,000 for Polk Street Passenger
Elevator Replacement; and (v) at least $1,000,000 for remaining Elevator Replacement Work; and

WHEREAS, Under the Amendment to Lease, City days has been reduced to up to 25 days per year; and
WHEREAS, Under the Amendment to Lease, Tenant shall pay for all utilities in connection with Tenant’s use of the Building without receiving any rent credit; and
WHEREAS, Other clauses in the Amendment to Lease update required City provisions; and
WHEREAS, The amendments to the certain sections of the Lease shall commence upon approval by the Board of Supervisors and Mayor; now, therefore, be it

RESOLVED, That in accordance with the recommendation of the Director of Property and the City Attorney, the Director of Property on behalf of the City, as Landlord, be and is hereby authorized to take all actions necessary to execute the Amendment to Lease at Bill Graham Civic Auditorium, for the remainder of the initial term and the two five year options subject to the enactment of a resolution by the Board of Supervisors and the Mayor, in their respective sole and absolute discretion, approving and authorizing the same; and, be it

FURTHER RESOLVED, The monthly base rent for the remainder of the initial twenty year term shall be $25,000 per month, subject to annual adjustments of 2.5% percent, exclusive of all utilities and services for which Tenant is solely responsible without any rent credit, as set forth in the Amendment to Lease; and, be it

FURTHER RESOLVED, The Board of Supervisors approves the Amendment to Lease in substantially the form in the Board’s File and authorizes the Director of Property to take all actions, on behalf of City, to enter into any further amendments or modifications (including without limitation, the exhibits) to the Lease that the Director of Property determines, in consultation with the City Attorney, are in the best interests of the City, do not materially
increase the obligations or liabilities of the City, and are necessary or advisable to complete
the transaction and effectuate the purposes and intent of this resolution and are in compliance
with all applicable laws, including City's Charter; and, be it

FURTHER RESOLVED, That the Competitive Bidding Procedures would be impractical
in light of the existing Lease Agreement between City and Tenant for the Building; and, be it

FURTHER RESOLVED, That any action heretofore taken by any City employee or
official with respect to the exercise of the Amendment to Lease as set forth herein is hereby
approved, confirmed and ratified; and, be it

FURTHER RESOLVED, That within thirty (30) days of the Amendment to Lease
agreement being fully executed by all parties, the Director of Property shall provide a copy of
the Amendment to Lease to the Clerk of the Board to include into the official file.
RECOMMENDED:

John Updike
Director of Property
Real Estate Division

RECOMMENDED:

Naomi Kelly
City Administrator
Resolution authorizing and approving an Amendment to Lease with BGCA Management, LLC, a Delaware limited liability company, for Bill Graham Civic Auditorium, at 99 Grove Street; increasing monthly base rent to $25,000; requiring tenant to be responsible for all utilities and a minimum of $10,250,000 in building improvements, new participation rent calculation, and other changes as set forth in Amendment; with no change to the term length to expire on December 31, 2030, to commence upon approval by the Board of Supervisors and Mayor.

January 25, 2018 Budget and Finance Committee - RECOMMENDED

February 06, 2018 Board of Supervisors - ADOPTED

Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

File No. 171322

I hereby certify that the foregoing Resolution was ADOPTED on 2/6/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mark E. Farrell
Mayor

2/9/18
Date Approved