

OPA/ Ratepayer Advocate on Figueroa Plaza / DWP Lease 10/26/2016

Concerns expressed by the OPA at the DWP Board meeting and 10/11 City Council Entertainment and Facilities meeting:

1. Where is the money coming from for the level of employment assumed? \$169M of labor costs were not planned for in rates.
2. What space planning has been done and needs to be done? Until DWP completes a space plan, the duration and scope of needs remain unclear.
3. What are market prices? Appraisals have been offered, but directly comparable transactions through a broker are better. DWP has hired no broker for this transaction – but this is commonly done by both the City and private entities. One solution is to add a “most favored nation” clause so that price can move down if an arms-length lease transaction occurs during the 10 year term.

Restated 10/26:

Given the many other expressed concerns about the transparency and fairness of the lease price and non-price terms for ratepayers, OPA advises that the Committee and City Council recommend additional delegated action by the Municipal Facilities Committee or the CAO after the lease is approved, but before it is executed:

- The Municipal Facilities Committee or CAO could explore whether DWP would find it beneficial to have an exit option at year 3 or 4, to allow for more comprehensive space planning of the “right size” for its needs.
- The Municipal Facilities Committee or CAO could explore whether DWP would find it beneficial to have a most favored nation clause added, in the unlikely event an unrelated party signs a lease with the City.

It is difficult to predict for so long a term as 10 years whether or not either of these two provisions would meaningfully change the actual occupancy or price. However, having them included improves the fairness of the transaction to ratepayers.

If DWP’s management perceives value in the flexibility of these two terms, and that value is consistent with the many landlord benefits cited by others, the Committee may delegate the execution these potential amendments after giving full consideration to all other issues and concerns.

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