

43 W. Hillman

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OFFICE OF THE CITY CLERK
OAKLAND
2003 NOV 20 PM 6:51

CITY OF OAKLAND

RESOLUTION No. 78221 C.M.S.

RESOLUTION: AUTHORIZING THE CITY MANAGER TO:
(1) AMEND THE REPAYMENT AGREEMENT WITH THE REDEVELOPMENT AGENCY INCREASING CITY APPROPRIATIONS BY \$367,500 FOR CONSTRUCTION WORK ON THE FOX THEATER AND WRAP-AROUND BUILDINGS; (2) WAIVE ADVERTISING AND BIDDING AND NEGOTIATE AND AWARD CONSTRUCTION CONTRACTS, WITHOUT RETURN TO COUNCIL, IN ACCORD WITH THE SPECIFICATIONS PREPARED BY THE CITY, THE STATE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION ("GREENBOOK" 2000 ED.), OAKLAND'S TECHNICAL SPECIFICATIONS AND THE CONTRACTOR'S BID(S) IN AN AMOUNT NOT TO EXCEED \$367,500 FOR REMOVAL OF MOLD AND OTHER HAZARDOUS MATERIALS FROM THE FOX THEATER AND WRAP-AROUND BUILDINGS; AND (3) AMEND THE OPERATING AGREEMENT BETWEEN THE CITY AND THE PARAMOUNT THEATRE OF THE ARTS, INC., AS NECESSARY OR APPROPRIATE TO ALLOW THE PARAMOUNT THEATRE OF THE ARTS, INC., TO EXECUTE AN EXCLUSIVE NEGOTIATING AGREEMENT WITH THE REDEVELOPMENT AGENCY FOR THE DEVELOPMENT OF THE FOX THEATRE AND WRAP-AROUND BUILDINGS

WHEREAS, the Fox Theater has sat vacant for over twenty-five years in the Uptown District of downtown Oakland and has been a blighting influence on the neighborhood; and

WHEREAS, the Redevelopment Agency ("Agency") purchased the Fox Theater in 1996 with the intention of restoring and re-opening the theater and the attached wrap-around buildings and stimulating new investment opportunities in the Uptown District ; and

WHEREAS, the Redevelopment Agency has completed certain steps in the restoration of the theater including: replacement of the roof in 1999; completion of façade restoration and store front drawings in 2000; renovation of the historic marquee and vertical sign in 2001; completion of the Fox Master Plan in 2002; and

successful recipient of a \$375,000 grant for façade restoration from the California Heritage Fund Program in 2002; and

WHEREAS, the Redevelopment Agency has been approached by development entities interested in revitalizing the Fox ,but none of the proposals have been regarded as financially feasible by Agency staff ; and

WHEREAS, in the winter of 2002, the Agency was approached by a development team headed by California Capital Group, a general partnership ("CCG") that wished to evaluate, in detail, one of the options for renovating the Fox as outlined in the Fox Master Plan ; and

WHEREAS, the CCG development team has prepared concept drawings and detailed cost estimates for revitalizing the Fox Theater into a cabaret-style performing arts venue that would activate the Fox for an unspecified time period before future funding could be obtained for a full theater restoration; and

WHEREAS, the CCG development team has discussed with the Oakland School for the Arts ("OSA") their future expansion plans, and has prepared concept drawings and detailed cost estimates for accommodating their needs in the wrap-around buildings which are attached to the Fox; and

WHEREAS: the Agency staff has held discussions with the Paramount Theater of the Arts, Inc. (PTA) regarding possible operating and financing structures necessary to develop the theater and attached wrap-around buildings,

WHEREAS: the Agency staff has reviewed all concept drawings, cost estimates and possible development and operation frameworks and found them to be a realistic and financially responsible method to revitalizing the theater and attached wrap-around buildings worthy of further analysis and negotiation; and

WHEREAS: the Agency wishes to enter into an Exclusive Negotiating Agreement (ENA) with PTA; and

WHEREAS: pursuant to an operating agreement, the PTA operates the Paramount Theatre for the City; and

WHEREAS: it may be necessary for the City to amend the operating agreement to allow PTA to enter into the ENA with the Agency; and

WHEREAS: during the ENA period, PTA and the Agency will: (1) explore alternative ownership structures for the Fox Theater and wrap-around buildings;(2) evaluate flexible design solutions for the wrap-around buildings to accommodate alternative uses; (3) outline alternative financing plans for renovating the theater and wrap-around buildings; and (4) provide a detailed

budget of all tasks needed to revitalize the theater and wrap-around buildings;
and

WHEREAS, the Agency and City have not agreed to sell any parking garages to help finance the proposed development until further review; and

WHEREAS: to help facilitate redevelopment of the Fox Theatre and wrap-around buildings pending negotiations between the Agency and the PTA under the ENA, the City wishes to enter into construction contracts with contractors in an amount not to exceed three hundred and sixty seven thousand five hundred dollars (\$367,500) for environmental clean-up and associated costs ; and

WHEREAS: it is essential that the environmental clean-up, which involves removal of hazardous materials such as lead, asbestos and mold, be completed prior to entry for other predevelopment work being authorized by the Agency currently herewith, in order to protect the workers entering the theatre and wrap around buildings from exposure to hazardous materials; and

WHEREAS: the City and the Agency have determined that the construction work to be performed by the contractors would be usable for any future use of the Fox Theater and Wrap Buildings even if this particular project were not to proceed; and

WHEREAS: the \$367,500 to be paid for the construction work is in the adopted FY 2003-2005 Agency budget, specifically programmed for the Fox Theater (P131130, P131140, P131170); and

WHEREAS, to assure successful redevelopment for the Central District Urban Renewal Project the Agency entered into an agreement with the City to provide services to approved Agency projects within the Central District Project Area; and

WHEREAS, the City has determined that it is appropriate for the City to undertake a number of activities related to these projects, including the Fox Theatre project; and

WHEREAS, there is presently an existing repayment agreement between the City and the Agency; and

WHEREAS, the City finds and determines that the performance of the construction contracts are in the public interest because of economy or performance; and

WHEREAS, the City lacks the personnel and equipment to perform the necessary work; and

WHEREAS, the City finds and determines that the construction contracts shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now therefore, be it

RESOLVED: that the City Manager is authorized to negotiate and award contracts for construction services without returning to Council for further approval in an amount not to exceed \$367,500 for the removal of mold and other hazardous materials from the Fox Theater and wrap-around buildings; and be it

FURTHER RESOLVED: that the City hereby finds and determines that pursuant to Chapter 2.04, Article I, section 2.04.050.1.5, it is in the best interests of the City to waive the formal bidding requirements and to authorize the City Manager or his/her designee to negotiate and award construction contracts for removal of mold and other hazardous materials in accord with the specifications to be prepared by the City, State Standard Specifications for Public Works Construction ("GreenBook"), 2000 Edition, City's Technical Specifications and contractor's bid(s) at the Fox Theater and wrap-around buildings in an amount not to exceed three hundred and sixty seven thousand five hundred dollars (\$367,500) without return to Council; and be it

FURTHER RESOLVED: that the City Manager is hereby authorized to enter into an appropriate amendment to the repayment agreement with the Agency, terms of which shall provide an additional payment of \$367,500 for the activities stated above; and be it

FURTHER RESOLVED: that the City Manager is hereby authorized to receive reimbursement from the Agency in the amount of \$367,500 for the activities stated above; and be it

FURTHER RESOLVED: that the City Manager is hereby authorized to appropriate \$367,500 for the activities as set forth above; and be it

FURTHER RESOLVED: that the City Manager is authorized to enter into any amendments to the operating agreement with the PTA as necessary or appropriate to allow the PTA to execute an ENA with the Agency; and be it

FURTHER RESOLVED: that the City Manager is further authorized to take whatever action is consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: that any and all agreements to be entered into pursuant to this Resolution be reviewed and approved by the City Attorney as to form and legality, and copies be placed on file with the City Clerk.

DEC 2 2003

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2003

PASSED BY THE FOLLOWING VOTE:

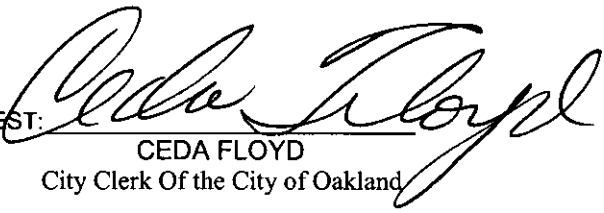
AYES- ~~BROOKS~~, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND ~~SHARPERSON DE LA FUENTE~~ - 6

NOES- 0

ABSENT- BROOKS - 1

ABSTENTION- 0

Excused De La Fuente - 1

ATTEST: 
CEDA FLOYD
City Clerk Of the City of Oakland