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**REDEVELOPMENT AGENCY
AND THE CITY OF OAKLAND**
AGENDA REPORT

TO: Office of the City/Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: July 8, 2008

RE: Report And Redevelopment Agency Resolutions Regarding The Fox Theater Project Including:

(1) Authorizing The Agency Administrator To Amend the Disposition And Development Agreement To Provide for A Bridge Loan Between The Agency And Fox Oakland Theater Inc (FOT), A Non-Profit Entity, In An Amount Not To Exceed \$7,450,000 To Fund The Completion Of The Fox Theater Renovation Project;

(2) Authorizing The Agency Administrator To Enter Into A Tenant Improvement Grant Agreement Between the Agency and GASS Entertainment Inc. In An Amount Not To Exceed \$2,000,000, To Fund The Completion Of The Fox Theater Renovation Project;

(3) Authorizing The Agency Administrator To Enter Into A Loan Agreement Between The Agency And Fox Theater Master Tenant, LLC. In An Amount Not To Exceed \$2,700,000 To Fund Needed Tenant Improvements In The Fox Theater;

(4) Authorizing The Agency Administrator To Enter Into A Loan Agreement Between The Agency And The Oakland School For The Arts In An Amount Not To Exceed \$2,300,000 To Fund The Tenant Improvements In The New Wrap-Around Portion Of The Building;

(5) Authorizing The Agency Administrator To Apply For, Accept And Appropriate Grant Funds From The Following: (1) California Cultural And Historical Endowment Grant In An Amount Not To Exceed \$1,400,000; (2) Department Of Housing And Community Development Infill Infrastructure Grant In An Amount Not To Exceed \$10,000,000; And (3) A Federal Housing And Urban Development Grant In An Amount Not To Exceed \$3,000,000; And

(6) Authorizing The Agency Administrator To Accept And Appropriate \$68,750 In Historic Mitigation Funds From Signature At Broadway Grand LLC, For The Fox Theater Project

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SUMMARY

This report presents an update on project costs and project funding for the Fox Theater Project (Project) and includes a staff recommendation to approve the six pieces of legislation noted in the title.

These Agency resolutions provide for \$14.45 million in two grants and three loans to cover increases in project costs incurred since July 2006. These cost increases result from: the following factors: (1) changes in the scope, design and construction of the theater for life-safety, historic and functional requirements; (2) tenant improvements in the new addition to the wrap-around building to be used by the Oakland School for the Arts (OSA) for which OSA is responsible (these were not part of the original construction contract); and, (3) tenant improvements in the theater beyond the allowance provided in the lease with the theater operator GASS Entertainment (a subsidiary of Another Planet Entertainment Inc.). The resolutions also provide for applying for, accepting, and appropriating grant funds.

Approval of the resolutions would keep the project on schedule with an anticipated opening for the school in September 2008 and the theater in late October 2008. Without these funds: (1) the theater will be incomplete and not fully functional; (2) OSA will not be able to complete all tenant improvements for their performance space, and would continue to need the tent located on Agency land at the back of the site; and (3) it will be impossible to attract a restaurant tenant to the unimproved space on 18th Street and Telegraph Avenue.

FISCAL IMPACT

The resolutions will authorize the Agency to make three separate loans and two grants and to accept three grants for the Project; each will go to a separate legal entity and will have the following impact on the Agency:

Bridge Loan to Fox Oakland Theater Inc (FOT): In order to keep the project on schedule for completion in the fall of 2008, and based on the increase in project costs, discussed in detail in the Key Issues section, the Project is in need of a bridge loan in the amount of \$7,450,000. The loan would be interest-free and is expected to be repaid from future revenue and new funding sources. The funds would be allocated from Central District Operations (Fund 9510). These funds are being made available as follows: 1) \$4,676,474 in accrued interest from Central District bond funds (Funds 9532 and 9533) will be used to make debt service payments on these 2003 and 2005 Tax Allocation bonds, thereby freeing up new tax increment from FY 2008-09 for appropriation to the Fox Project; 2) There are \$1,860,444 in unspent salary appropriations in the Agency from previous years for various departments, which by policy cannot be carried forward in the City's budget and were previously deleted in Fund 7780. However, the Agency continued to carry these funds forward in Fund 9510, Project S00800 and will re-appropriate them for the Fox Project; and 3) \$2,331,937 will be transferred from Fund 9521 to correct a previous reimbursement. Specifically, in 2003 the Agency reimbursed the City in an amount of \$1,715,484 for unpaid expenses related to the City Administration Complex. In addition, the

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Agency paid over \$3 million to the City for other costs including associated negative interest (ORA Resolution No. 2003-22 C.M.S.), some of which should have been reimbursed from the City Hall West Earthquake Fund (9521).

The three transactions above will provide \$7,450,000 for the loan and \$1,418,855 to the fund balance to cover for delayed revenue from the sale of the 5 acres at Oak Knoll, which was needed to replenish the fund balance spent in FY 2007-09.

The use of these funds on the Fox Project will delay their availability for other unidentified projects and programs in the Central District until after the loan is repaid from grant revenue. These other uses for the funds could include development (retail, hotel, office, parking, etc.), infrastructure and public facility projects in the downtown.

Agency Grant to GASS Entertainment Inc.: \$2,000,000 to help fund the completion of the tenant improvements for the Fox Theater Renovation Project. The funds for the grant will come from the fund balance of the Central District 2003 Bonds (Fund 9532). Use of these funds on the Fox will prevent their use for other unidentified projects and programs in the Central District.

Term Loan to Fox Theater Master Tenant, LLC: The Agency loan to Fox Theater Master Tenant (FT Master Tenant) would be a term loan in the amount of \$2,700,000 needed to help pay for (1) \$1,300,000 will be loaned to GASS to fund additional tenant improvements beyond what the FT Master Tenant and per the lease agreement; and (2) \$1,400,000 from the loan to pay for tenant improvements in the “Restaurant Space” on the corner of 18th Street and Telegraph Avenue.

The funds would be allocated from City Center Land Sales (Fund 9511). These funds are being made available through several actions: 1) there is approximately \$787,702 in fund balance that can be appropriated; there are several projects that have been completed from which remaining funds can be re appropriated - \$1,396,014.00 from City Center West Garage Debt service, \$228,903.43 from 10K Housing, and \$287,380.76 from Chinatown Hotel Environmental Clean-Up. These sources total \$2,921,744 and would leave \$221,744 in the fund balance. Use of these funds on the Fox will delay their availability for other unidentified projects and programs in the Central District until after the loan is repaid.

Bridge Loan to the OSA: The Agency loan to the OSA would be a \$2,300,000 bridge loan allowing the school to complete the tenant improvements in the new wrap-around portion of the building. This will allow the school to open in time for the 2008 academic year. The improvements are discussed in the Key Issues section of this report. The loan would be at 5% interest (the Agency’s cost of funds) over a 3 year term. The security for the loan would be the revenue from a second billboard. The funds would be allocated from several sources, including: \$400,000 from Central District 2006-T Bonds (Fund 9535) fund balance, \$700,000 from Chinatown Land Sales (Fund 9512) fund balance, and \$1,200,000 from Preservation Park Operations (Fund 9562) which will include \$328,046 re-appropriated from Preservation Park Operations Project carry forward, and \$871,954 from fund balance. This will leave fund balances of \$4,540 in Fund 9535, \$203,020 in fund 9512 and \$247,125 in Fund 9562. Use of these funds on the Fox will delay their availability for other unidentified projects and programs in the Central District until after the loan is repaid.

The full list of Agency sources of funds and the uses for those funds includes:

\$7,450,000 Bridge Loan

Source	\$4,676,474	9510	00000	Accrued interest
	\$1,806,540	9510	S00800	Unspent salary appropriations
	\$53,904	9510	A00610	Unspent salary appropriations
	\$913,082	9510	Fund Balance	Transferred from 9521 City Hall W Earthquake
Use	\$7,450,000	9510	TBD	New Project will be set up.

\$2,000,000 Grant to GASS Entertainment Inc

Source	\$2,000,000	9532	Fund Balance	Central District 2003 Bonds
Use	\$2,000,000	9532	TBD	New Project will be set up.

\$2,700,000 Term Loan to FT Master Tenant

Source	\$787,702	9511	Fund Balance	City Center Land Sales Fund
	\$1,396,014	9511	P126950	City Center West Garage Debt Service
	\$228,903	9511	P118520	10K Housing
	\$287,381	9511	G150210	Chinatown Hotel Environmental Clean-Up
Use	\$2,700,000	9511	TBD	New Project will be set up.

Bridge Loan to the Oakland School for the Arts

Source	\$400,000	9535	Fund Balance	Central District 2006-T Bonds
	\$700,000	9512	Fund Balance	Chinatown Land Sales
	\$328,046	9562	P167330	Preservation Park Operations Project
	\$871,954	9562	Fund Balance	Preservation Park Operations
Use	\$2,300,000	Various	TBD	New Project will be set up.

BACKGROUND

The renovation of the Fox Theater into a performing arts center and new home for the OSA is a unique construction project that combines new building technology with historic preservation. The challenge to this project has been to preserve the building and modernize it at the same time; to balance the need for seismic safety with historic integrity; to preserve architectural detail and still accommodate all new mechanical, electrical and plumbing requirements; to ensure the maintenance of historic tax credits with the needs of the users. The fact that the building stood vacant for over forty years compounded the renovation complexities. Generally, the increase in project costs and the need for additional funds can be attributed to the following:

- An increase in the magnitude and complexity of the restoration from the original “Ruins Concept”
- Changes in the design, construction and installation of mechanical, electrical and plumbing systems due to changing code requirements, modified tenant program requirements and unforeseen conditions
- Modifications to the size of the wrap building by the National Park Service and the State Historic Preservation Office to ensure historic tax credit status
- Voluntary additions to the structural and seismic design of the theater to minimize future costs and maximize safety
- New tenant improvements (TI) and Furniture Fixtures and Equipment (FF&E) added by theater operator and tracked as tenant improvements
- Delay and lack of funding for the tenant improvements for the new performing spaces in the school
- Plan check revisions by the City Building Services and the Fire Marshal for fire prevention requirements

KEY ISSUES AND IMPACTS

UPDATE ON SOURCES OF FUNDS

Original Sources: At the time of the last staff report to Council on July 18, 2006, the Project had secured **\$60.1 million** in funds. These funds included: (1) a \$6.5 million loan for the land and improvements and \$25.5 million loan for development from the Redevelopment Agency, (2) a \$2.9 million California Cultural & Historical Endowment Grant and a \$375,000 California Heritage Preservation Fund Grant, (3) \$1.2 million Federal Charter School Facility Grant, (4) \$6 million in Historic Rehabilitation Tax Credits (HRTC) and \$8.5 million in New Markets Tax Credits (NMTC), (5) \$500,000 Friends of Oakland Fox (FOOF) grant, (6) \$600,000 HUD EDI Grant, (7) a Bank of America construction loan in the amount of \$6.5 million, and (8) \$1.5 million in fire insurance settlement proceeds and other smaller grants and contributions.

Since July 2006, the original project sources total has increased to **\$67.9 million**; an increase of \$7.9 million. This was primarily due to an increase in HRTCs caused by the increase in total project costs and the award of a new California Cultural and Historical Endowment Grant.

New Sources: It has always been anticipated that a significant amount of fundraising and grant awards would need to occur to provide a larger construction contingency, as well as additional coverage for unforeseen conditions. To accommodate these circumstances, staff and California Capital Group (CCG) have worked diligently to secure more funding for the project and since the last report to Council, have identified an additional \$14.8 million in new sources of funding (see Subtotal – New Sources in Table 1). This brings the total sources of funds for the project to **\$82.7 million**. Table 1 also outlines in further detail the original sources of funding and any changes in amounts since July 2006. A brief description of each follows:

TABLE 1
Sources of Funds
Fox Theater & GASS Entertainment

SOURCES - THEATER AND GASS	7/18/06 Report	Updated Totals	Change	Bridge Loan/ Grant - FOT	Loan - FT Master
ORIGINAL SOURCES					
Agency Land/Improvements Loan	6,500,000	6,500,000	0		
Agency Development Loan	25,500,000	25,500,000	0		
California Cultural & Historical Endowment Grant	2,887,500	3,951,750	1,064,250		
California Heritage Preservation Fund Grant	375,000	375,000	0		
Federal Charter School Facility Grant	1,200,000	0	(1,200,000)		
Historic Tax Credits	6,000,000	13,156,000	7,156,000	1,100,000	
New Markets Tax Credits	8,500,000	8,610,000	110,000		
Conventional loan paid by OSA revenue stream and secured by Agency	6,500,000	6,500,000	0		
Friends of the Oakland Fox Campaign	500,000	500,000	0	350,000	
HUD funding	600,000	594,000	(6,000)		
Potential Insurance proceeds	1,500,000	2,226,250	726,250		
Subtotal - Original Sources	60,062,500	67,913,000	7,850,500	1,450,000	0
NEW SOURCES					
Cash from operations	0	761,875	761,875		
Interest income	0	700,000	700,000		
American Express Partners in Preservation Grant	0	75,000	75,000		
OSA Contribution to theater construction	0	1,500,000	1,500,000		
Monies to be reimbursed by OSA	0	280,787	280,787		
CCHE Additional Grant Funding	0	1,000,000	1,000,000	1,000,000	
HUD Grant #2	0	3,000,000	3,000,000	3,000,000	
Ghielmetti Mitigation	0	68,750	68,750		
Prop 1C	0	2,000,000	2,000,000	2,000,000	
Redevelopment Façade Improvement Grant	0	75,000	75,000		
APE Lease Obligation	0	500,000	500,000		
Redevelopment Tenant Improvement Grant	0	99,000	99,000		
Agency Loan to FT Landlord	0	2,700,000	2,700,000		2,400,000
Agency Grant to GASS	0	2,000,000	2,000,000		
Subtotal - New Sources	0	14,760,412	14,760,412	6,000,000	2,400,000
Total Sources	60,062,500	82,673,412	22,610,912	7,450,000	2,400,000

***excludes OSA tenant improvement costs**

ORIGINAL SOURCES

Agency land loan of \$6,500,000: The \$6,500,000 loan is comprised of the \$3,000,000 purchase prices and \$3,500,000 in improvements, including reroofing, hazardous materials abatement, and initial planning and design. These funds have all been expended on the project.

Agency development loan of \$25,500,000: The \$25,500,000 development loan is comprised of the \$3,000,000 predevelopment loan already made for the Project and \$22,500,000 in additional funds. These funds have all been expended on the project.

California Cultural and Historic Endowment (CCHE) Proposition 40 Grant of \$2,887,500 Increased by \$1,064,250: The focus of the CCHE Grant is to promote the preservation of

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California history by funding projects that have cultural, architectural and historic significance in the state. In January 2005, the Agency received an award of \$2,887,500 from the CCHE to reimburse expenditures related to the renovation of the Theater. **Status:** The grant has been expended (with the exception of final close out) on the theater restoration including: site improvements, structural, electrical, mechanical and plumbing systems as well as restoration of historic theater components.

A second grant of \$1,064,250 was received from CCHE in January 2008. This money is being spent on interior finishes, historic façade restoration and mechanical systems, and will be expended before July 1, 2008.

California Heritage Fund Grant of \$375,000: In early 2004, the Agency received a California Heritage Fund (CHF) Grant from the State Historic Preservation Office in the amount of \$375,000 that was matched by the Agency dollar for dollar. **Status:** The time period to use the grant money expires on June 30, 2009. This money is being used to restore the historic façade of the theater and wrap-around building.

Federal Charter School Facility Grant of \$1,200,000 Decreased to Zero: Working with the Mayor's Office, staff attempted to secure a \$1.2 million Federal Charter School Facility Incentive Grant. **Status:** The grant was not awarded.

Historic Rehabilitation Tax Credits of \$6,000,000 Increased by \$7,156,000: CCG and staff secured approximately \$6.0 million in HRTCs for the Project. **Status:** The HRTCs have increased by \$7,156,000 to total \$13,156,000, and are available to the project.

New Markets Tax Credits of \$8,500,000 Increased by \$110,000: The Fox Project has identified and secured approximately \$8.5 million in NMTC's. **Status:** The tax credits are available and have been increased by \$110,000 to total \$8,610,000.

Conventional loan paid by OSA revenue stream and secured by Agency guarantee of \$6,500,000: As part of a new 20-year lease for a billboard on Port of Oakland property, CBS Outdoor has pledged to the OSA and FOT, 31.5% of the adjusted gross revenues derived from general advertising for years 1-5 and 35% for years 6-20. OSA will assign all of this funding to the Fox owner as prepaid rent for the term of the OSA lease, 7.5 years. FOT will then use this income stream to secure a loan in the amount of \$6,500,000. These funds will be used toward construction costs of the wrap building and additions for OSA. **Status:** FOT and FT Landlord secured a construction loan based on the billboard revenue, backed by a guarantee from the Agency. These funds are now being drawn to fund the construction.

Friends of the Oakland Fox (FOOF) Campaign contribution of \$500,000: FOOF is a non-profit organization established in 2000 to advocate and support the historic preservation of the Fox Theater and its use as a live entertainment venue. Starting in the fall of 2005, FOOF embarked on a campaign to raise \$500,000 for the restoration of the theater and wrap-around building. **Status:** To date FOOF has raised approximately \$200,000, almost half of its stated goal. If FOOF is unable to reach its stated goal, the existing sources of funds are still sufficient to fund the Fox restoration.

HUD EDI Grant of \$600,000 Decreased by \$6,000: In January 2008, the City of Oakland received a HUD-EDI grant in the amount \$594,000. **Status:** The funds have been received, are unrestricted, and will be used for the theater restoration.

Potential Insurance Proceeds of \$1,500,000 Increased by \$726,250: For budgeting purposes, the Agency estimated \$1.5 million in insurance settlement proceeds anticipated from the fire that occurred in the Fox in 2004. **Status:** The final settlement increased the budgeted amount by over \$700,000 for a total of \$2,256,250. The funds have been received and are being spent on the project.

NEW SOURCES

Cash from Operations of \$761,875: The initial revenue from the first billboard is being used to fund development costs, including hard and soft costs as well as financing costs after the \$6.5 million construction loan is drawn. The project has already received the funds.

Interest Income of \$700,000: The \$25.5 million Agency loan and the \$8.7 million New Market Tax Credit enhancement, as well as all of the other sources of funds, were put on deposit in a construction draw account with Bank of America. Approximately \$700,000 in interest will be earned by these funds and will be used to fund the Fox Project.

American Express Partners in Preservation Grant of \$75,000: This grant is administered by American Express Philanthropy and the National Trust for Historic Preservation. The grant was received in March 2007 and is being used to restore the theater's Art Deco ticket booth.

OSA Contribution to Theater Construction of \$1,500,000: The lease with OSA requires a \$1.5 million prepayment of rent to finance the construction of the project, which had been anticipated to be paid from the Federal Charter School Facility Grant. When OSA didn't receive the grant, they were required to find other sources to make up this commitment. OSA has paid \$400,000 to the Fox Project and will use the Agency loan and fundraising to cover the remaining \$1.1 million in lease obligations, as well as to finance OSA's tenant improvements.

Monies to be Reimbursed by OSA of \$280,787: OSA has already reimbursed the Fox Project for \$280,787 in design changes and plumbing improvements related to the tenant improvements that OSA is contracting for directly.

CCHE Prop 40 Additional Grant Funding of \$1,000,000: The CCHE program will have approximately \$10-\$30 million available for reallocation this year. This is money that was initially allocated to various recipients around the State but, because of circumstances, was never used and will be returned to CCHE for reallocation. Based on Oakland's past success with this grant program and its ability to apply these funds to the restoration of the Fox Theater, it is anticipated that Oakland's application for additional funding will be very competitive.

HUD Grant No. 2 \$3,000,000: This is a HUD/EDI Federal appropriation request that is pending approval. If granted, this money will go to the theater renovation.

Historic Mitigation \$68,750: These funds came from the owner of a downtown development. As a mitigation for removing an historic façade, the Oakland Planning Commission required the

owner to pay a mitigation fee of \$68,750. This was approved in May 2008 and applied to the Fox Theater Project.

Proposition 1C \$2,000,000: In March 2008, the Agency applied for funds from the Department of Housing and Community Development’s Infill Infrastructure Grant Program. The grant application has been approved by the state’s loan and grant committee for funding. The funds allocated for the Fox Theater are in the amount of \$2 million, but may be higher.

Redevelopment Façade Improvement Grant \$75,000: The theater is eligible for a grant of \$75,000 from the Agency’s Façade Improvement Program which will be used to partially fund the theater’s historic façade.

GASS Lease Obligation \$500,000: GASS Entertainment Inc. has provided the Agency with \$500,000 for TI and FF&E per the executed lease agreement between Fox Theater Master Tenant LLC and GASS Entertainment.

Redevelopment Tenant Improvement Grant \$99,000: The theater is eligible for a grant of \$99,000 from the Agency’s Tenant Improvement Program. This money will be used for interior improvement to the theater.

Redevelopment Agency \$2,000,000 Grant to GASS and Agency \$2,700,000 Loan to FT Master Tenant: The theater requires additional funding for tenant improvements to make the theater fully functional - seating, lighting, sound system, rigging, cat-walk, additional plumbing, equipment, etc. Funds are also required to build-out the “restaurant” space at 18th and Telegraph. Given the available sources of funds and the needs of the project, staff is proposing a \$2,000,000 grant from tax exempt bonds that can only be granted not loaned, and a \$2,700,000 loan. The loan is being made to FT Master Tenant for two reasons, (1) FT Master Tenant needs the loan to complete tenant improvements for spaces that haven’t been leased, including the “restaurant”, which may have 2 tenants; and (2) FT Master Tenant is pledging its revenue from the naming rights to the theater, which are shared equally with GASS, to cover debt service for the first 5 years, and is pledging its revenue over base, \$2.00 per square foot, from the restaurant space, to partially repay the loan to the Agency.

Agency Assistance to GASS: The costs of the theater have increased substantially. An additional \$3,300,000 is needed for the theater tenant improvements, to be funded from the \$2,000,000 Agency Grant and \$1,300,000 of the Agency Loan to FT Master Tenant. FT Master Tenant will loan the funds to GASS at market-rate (prime plus two points or seven percent interest) and the Agency will receive all repayments from this revenue. FT Master Tenant will also pledge its share of the revenue from naming rights for the first five years. After the first five years, GASS will be required to fully amortize all remaining interest and principal during the remaining 10 years of the lease. FT Master Tenant would loan the \$1,300,000 to GASS at market rate interest (prime plus 2%, which amounts to 7% based on the current rate) amortized over a 15-year term with a balloon payment after 10 years (to be extended to the full term of the lease after the lease options are made by GASS). Payments would be made solely from revenue generated by granting Naming Rights to third parties for the first five years but with interest still accruing. Per the lease, the “Naming Rights Revenue” was to be split evenly between FT

Master Tenant and GASS, so FT Master Tenant would in effect be making half of the payments for this first 5 years. The loan will be secured by the revenue that GASS will get from theater operations.

Assistance to Future Restaurant Tenants: The original budget from 2006 did not have sufficient funds to cover tenant improvement costs for the “restaurant space” at 18th and Telegraph. Negotiations with various potential tenants have indicated that the FT Master Tenant will need to provide at least \$200 per square foot for the tenant improvements to turn this space into a restaurant. The tenants will need to spend at least another \$100 per square foot or about \$300 per square foot for a destination restaurant. FT Master Tenant has proposed to borrow \$1,140,000 from the Agency to cover the landlord’s portion of the tenant improvements for the restaurant and to borrow another \$250,000 to be used to provide market-rate loans to the tenants for additional improvements. These additional funds would be used to fund improvements above the landlord/tenant costs of \$300 per square foot. The loans will be deferred for the first three years followed by full amortization during the remaining term of the lease. The Agency will receive all repayments made on the loans and would receive all lease revenue above a base rent of \$2.00 per square foot.

UPDATE USES OF FUNDS FOR THE THEATER

The renovation of the Fox Theater into a performing arts center and new home for the OSA is a complex project that involves the preservation and modernization of an eighty year old historic building that has been closed for over 30 years. Because the renovation entails constructing a modern performing arts center and a school within an historic building, the cost of the renovation has increased beyond the original estimate.

When the DDA was approved July 2006, the total cost for the renovation of the theater was **\$60.1 million**. Over the past 19 months, total costs for the Project have increased by \$22.6 million, for a total project cost of **\$82.7 million**.

The Budget was always short on contingency. A typical historic renovation should have a 20% contingency. When the budget was developed in June 2006, the contingency was 10%. By the time construction started the contingency was down to about 5%. In effect, the budget was underestimated to meet the available sources of funds while staff continued to look for additional sources. More over, the budget was created over 6 months before the designs were completed and the construction contract signed. As expected, the costs rose over the initial budget. The increase in total project costs has been due primarily to four factors: (1) life-safety improvements, including fire and seismic enhancements over the initial design; (2) historic changes required by the State Historic Preservation Office and the National Parks Service and other enhancements to maintain the historic character of the building; (3) functional improvements to the theater, including electrical, plumbing, rigging, sound and lighting systems, and freight elevator upgrades; and (4) soft cost increases for design changes just discussed, engineering and testing for structural upgrades and construction verification, permits, and consultants for the Small/Local Business Enterprise recruitment, grant fundraising, theater and

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historic specialists. Table 2 summarizes the changes in Uses of Funds, some of the more important changes are:

- Design and construction of mechanical platforms on the theater roof (\$1.0 million)
- Fire sprinkler additions (\$400,000)
- Stage house redesign and seismic upgrades (\$1 million)
- Projection room modifications and strengthening of the tower to support mechanical systems (\$100,000)
- Loading dock and freight elevator redesign and construction (\$1.1 million)
- Historic painting additions (\$400,000)
- Basement design and build out (\$1.0 million)
- Plumbing for the bars (\$570,000)
- House lighting and historic fixtures (\$400,000)
- Architectural and Structural Design Revisions (\$700,000)
- Tenant improvements to the restaurant space (\$1.1 million).

TABLE 2
Uses of Funds
Fox Theater & GASS Entertainment

USES - THEATER AND GASS	7/18/06	Updated	Change
Soft Costs			
Land & improvement	6,500,000	6,500,000	0
California Capital Group (Aug-05 - Dec-08)	1,191,500	1,360,540	169,040
Architectural/Structural	2,242,000	3,799,004	1,557,004
Construction Administration - Technical	835,500	1,955,165	1,119,665
Construction Administration - Non-Technical	1,153,500	2,103,000	949,500
Soft costs - Formation/Financing	250,000	2,174,701	1,924,701
Subtotal - Soft Costs	12,172,500	17,892,410	5,719,910
Hard cost total			
Contingency	45,190,000	47,793,563	2,603,563
Change Orders thru 5/31/08	2,700,000	294,560	(2,405,440)
Change Orders - Contingency	0	8,438,082	8,438,082
APE tenant improvements	0	1,188,357	1,188,357
Restaurant tenant improvements	0	5,926,440	5,926,440
	0	1,140,000	1,140,000
Subtotal - Hard Costs, Contingency, CO's, TI's	47,890,000	64,781,002	16,891,002
Total Uses	60,062,500	82,673,412	22,610,912

UPDATE: GASS ENTERTAINMENT INC. SOURCES OF FUNDS

The Agency executed a ten year lease with the theater operator GASS Entertainment Inc. (an Another Planet subsidiary). The lease requires the Agency to allocate \$1.5 million as an allowance for tenant improvements in the theater and \$500,000 for furniture, fixtures and equipment (FF&E). The lease requires GASS to contribute \$500,000 to FF&E. In addition, 30% of the total project contingency is to be earmarked for tenant improvements and FF& E, and the

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Agency is to contribute \$99,000 from the façade improvement program. The lease states that if the tenant improvements and the FF&E amounts budgeted for the project are less than what is required to improve the space, and after all reduction steps have been taken, then the Agency and GASS will work together to identify additional sources of funding.

BUDGET UPDATE: OAKLAND SCHOOL FOR THE ARTS

The Agency signed a seven and a half year lease with the OSA on December 18, 2006. The lease outlines both landlord (Agency) and tenant (OSA) responsibilities and financial obligations for improving the building. In general, the Agency is responsible for delivering a base building core and shell (walls, mechanical, electrical, plumbing, etc.) that encompasses the new three story addition and the historic wrap-around building. This work is on schedule for completion in the fall of 2008. The tenant is essentially responsible for the tenant improvements and FF&E inside the historic wrap-around building, but the lease does not include the tenant improvements in the new wrap-around building. These are the sole responsibility of the OSA. These costs were never included in the project construction costs.

In April 2008, the OSA and Turner Construction signed a construction contract in the amount of \$4.0 million. The OSA has \$1.7 million cash on hand and is committed to the improvements, but needs an additional \$2.3 million to complete the project in time for the 2008 academic year.

Staff recommends that to keep the project on schedule, with the school opening in the fall of 2008, the Agency extend a bridge loan to OSA in the amount of \$2.3 million (see terms of the loan under the fiscal impact section of this report). OSA is also currently fundraising to cover FF&E and rent owed to the Agency, which are due in the next few months.

**TABLE 3
 Sources and Uses of Funds
 Oakland School for the Arts**

Sources - OSA	7/18/06 Report	Updated Totals	Change	Bridge Loan - OSA
OSA capital	3,682,000	0	(3,682,000)	
Monies already reimbursed by OSA	0	280,787	280,787	
Cash on hand	0	1,100,000	1,100,000	
Bing Grant	0	1,000,000	1,000,000	
Additional fundraising required	0	2,343,000	2,343,000	
OSA Loan	0	2,300,000	2,300,000	2,300,000
Total Sources	3,682,000	7,023,787	3,341,787	2,300,000
Uses - OSA	7/18/06 Report	Updated Totals	Change	
OSA tenant improvements	3,682,000	4,043,000	361,000	
OSA Soft Costs	0	280,787	280,787	
FF&E	0	1,200,000	1,200,000	
Rent owed to Agency by OSA	0	1,500,000	1,500,000	
Total Uses	3,682,000	7,023,787	3,341,787	

Budget Update: Redevelopment Expenditures

The Agency has spent substantial funds purchasing, preserving and redeveloping the site and is now being asked for additional funds to complete the project. If the requested funds are approved, the Agency will have spent almost \$49 million on the project of which \$7.5 million is for the new bridge loan that is expected to be fully or substantially repaid in the short term. The Agency contributions are 54.5% of the total costs. If the full bridge loan is discounted, which could be fully repaid from grant funds, Agency contributions are reduced to 46.2% of the total costs. See Tables 4 and 5 for the Agency Sources of funds compared to the Development Costs.

**Table 4
 Total Agency Sources**

\$3,000,000	Agency Land Purchase
\$3,500,000	Reroofing and other improvements
\$25,500,000	Predevelopment/Development Loans
\$2,226,250	Fire Settlement
\$34,226,250	Sub Total
<hr/>	
\$7,450,000	New FOT Bridge Loan
\$2,000,000	New GASS Grant
\$174,000	New Façade and TI Programs
\$2,700,000	New FT Master Tenant Loan
\$2,300,000	New OSA Loan
\$14,624,000	Sub Total
<hr/>	
\$48,850,250	Total Agency Assistance

**Table 5
 Total Development Costs**

\$6,500,000	Land Costs
\$11,392,410	Soft Costs
\$294,560	Contingency
\$63,334,642	Construction Costs
\$1,151,800	Restaurant Tenant Improvements
\$82,673,412	Subtotal - Theater & GASS
<hr/>	
\$7,023,787	OSA - TI & FF&E
\$89,697,199	Total Costs
<hr/>	
54.46%	Total Agency Assistance
46.16%	Total Agency Assistance - Bridge Loan

PROJECT DESCRIPTION

General

The Project consists of the renovation of the Fox Theater into a live performing arts center with a flexible seating plan capable of accommodating between 500 and 3,000 patrons. It will be structurally upgraded to meet existing seismic standards and renovated in a manner that will meet the Secretary of the Interior's Standards for Rehabilitation of Historic Properties (the Secretary's Standards). The existing attached buildings, which wrap around the theater and are part of the original 1928 design, will be renovated into the future home of the OSA. These buildings will be used for academic classrooms. Two new additions have been designed onto the single story portions of the wrap-around buildings as part of the new school design. These will serve as performing arts studios for the school. Restaurant and bar spaces are designed for the ground floor along Telegraph Avenue. These will serve the Uptown neighborhood in general and the theater during performances.

Orchestra Level: The orchestra level (main level) is a flexible design that can be configured differently for various types of performance. This will be accomplished through a series of carpeted platforms that will slope downward on the main floor toward the stage and can accommodate tables and chairs for cabaret-style performances or stadium seating for more traditional performances (some fixed stadium seats will exist with either configuration). Cabaret seating will seat approximately 500-600 patrons while stadium seating would seat approximately 1,100. Refreshments will be served from a bar at the rear of the theater. Restrooms will be located at this level. This floor will be handicapped accessible. The ornate plaster ceiling and the large Hindu figures will be restored.

Balcony Level: The balcony is a fixed stadium-style seating configuration and will accommodate approximately 1,000 patrons. It will be accessed by stairs and an elevator. The elevator interior will be restored to its original 1928 grandeur. Restrooms will be located at the mezzanine level which is located between the lower and upper balconies. A bar and refreshment area will be located in the mezzanine lobby.

Basement: The basement beneath the stage will be cleaned and new dressing rooms will be constructed. The basement beneath the theater entrance will be cleaned and new offices, storage, refrigeration and meeting rooms will be constructed.

Stage: The stage will be raised 20 inches to better accommodate new sight lines. New rigging and lighting systems will be installed. A new loading dock at the back of the theater will allow trucks to load directly onto the stage.

Wrap-Around Buildings

The wrap-around buildings consist of the existing 1928 structure and two new three-story additions on the 18th and 19th Street sides of the theater.

Existing Wrap-Around Building: The ground floor of the existing wrap-around building will accommodate the theater lobby/bar, a restaurant, a VIP lounge, a new theater box office and new restrooms. The bar and restaurant will be accessible to Telegraph Avenue and the inside of the theater. A catering kitchen will also serve the theater. The second and third floors will accommodate the academic classrooms and school administration offices for the OSA, including language labs, creative writing labs, and math/science labs.

New Additions: The two new “wing extensions” on the 18th and 19th Street sides of the theater will accommodate the entrance to the OSA, a student center and rehearsal space at the ground level. Music and dance studios as well as practice rooms will be located on the second and third floors.

SUSTAINABLE OPPORTUNITIES

Economic:

The proposed Project will contribute significantly to the elimination of blight in the Uptown District of Downtown Oakland. The private sector and the Agency are investing millions of dollars in the area to create an arts and entertainment district. A revitalized Fox Theater will help support and complement the many projects in the area including the Forest City residential development, new housing at 24th and Broadway, new parking structures, and the streetscape improvements on Telegraph Avenue. In addition, the Project will stimulate new investment in the food and entertainment sectors, and will benefit the local labor force by providing Living Wage employment.

Environmental:

The Project will preserve a historically significant structure and improve upon the physical environment in the Downtown. The Project will remove dangerous and hazardous materials from an existing building and replace them with recycled content materials and other environmentally sensitive materials. Because it is located by a BART station, the rehabilitated Project will encourage the use of mass transit and help to reduce the reliance on automobiles and the harmful emissions that they produce.

Social Equity:

The Project will exceed City local hiring goals by seeking to employ 50% local and small local business enterprises. In addition, the Project will house the Oakland School for the Arts, which will train and educate students and provide them with opportunities for future employment. The Project will also promote pedestrian activity, street vitality and public safety to an area that is currently void of pedestrian activity and that has a high incidence of crime.

DISABILITY AND SENIOR CITIZEN ACCESS

The Project will comply with all applicable State and Federal accessibility laws and regulations.

RECOMMENDATION(S) AND RATIONALE

At this point in the project, there seem to be few choices. To keep the Project on schedule, adoption of the resolutions is required. If funding is not approved, project construction will likely stop until alternative funding sources are identified. This could prevent project completion and put the Agency at risk of having to meet its obligations under the guarantees it made to the tax credit investors, a loss of almost \$22.0 million in equity for the project. In addition, costs for remobilizing the contractor following work stoppage would greatly increase remaining project costs. Finally, without the additional funds, the tenant improvements required to attract tenants will not be made and parts of the project could remain vacant.

Staff therefore recommends approval of the various resolutions in order to complete the project.

ACTIONS REQUESTED OF THE REDEVELOPMENT AGENCY

For the reasons stated immediately above, it is recommended that the Agency approve the resolutions regarding the Fox Theater Project:

Authorize a Bridge Loan to Fox Oakland Theater Inc. (FOT) in an amount not to exceed \$7,450,000 to pay for unforeseen increases in costs of project construction of the Fox Theater;

Authorize a grant to GASS Entertainment Inc. in an amount not to exceed \$2,000,000 for needed theater tenant improvements;

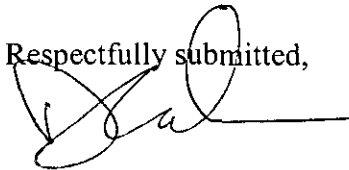
Authorize a loan to Fox Theater Master Tenant, LLC in an amount not to exceed \$2,700,000 to fund needed tenant improvements in the Fox Theater;

Authorize a loan to the OSA in an amount not to exceed \$2,300,000 to construct tenant improvements in the new wrap-around portion of the building that will be used by OSA as performance spaces;

Authorize the Agency Administrator to apply for, accept and appropriate grant funds from the following: (1) California Cultural and Historical Endowment Grant in an amount not to exceed \$1,400,000; (2) California Department of Housing and Community Development Infill Infrastructure Grant in an amount not to exceed \$10,000,000 and (3) a Housing and Urban Development Grant for an amount not to exceed \$3,000,000; and

Authorize the Agency Administrator to accept and appropriate \$68,750 in historic mitigation funds.

Respectfully submitted,

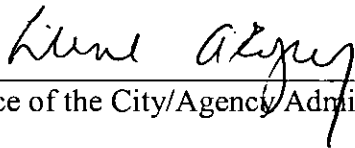


Dan Lindheim, Director
Community & Economic Development Agency

Reviewed by:
Gregory D. Hunter, Deputy Director
Economic Development and Redevelopment, CEDA

Prepared by: Patrick Lane and Jeffrey Chew
Redevelopment Agency

APPROVED AND FORWARDED
TO THE COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE:



Office of the City/Agency Administrator

Item: _____
CED Committee
July 8, 2008

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 JUN 26 PM 8:24

APPROVED AS TO FORM AND LEGALITY

AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO AMEND THE DISPOSITION AND DEVELOPMENT AGREEMENT TO PROVIDE FOR A BRIDGE LOAN BETWEEN THE AGENCY AND FOX OAKLAND THEATER INC (FOT), A NON-PROFIT ENTITY, IN AN AMOUNT NOT TO EXCEED \$7,450,000 TO FUND THE COMPLETION OF THE FOX THEATER RENOVATION PROJECT

WHEREAS, the Agency entered into a Disposition and Development Agreement (DDA) in December 15, 2006 with Fox Oakland Theater Inc.(FOT) for the purpose of developing the Fox Theater with financial assistance as follows: (1) a loan in the amount of \$33,500,000, including (a) \$22,500,00 in new Central District capital and operating funds, (b) \$3,000,000 already expended under a predevelopment loan and (c) \$6,500,000 in previously expended acquisition and capital improvement costs; (d) \$1,500,000 to advance funds for a fire insurance settlement; (2) a guarantee to secure a \$6,500,000 commercial loan, for construction and long-term financing; and (3) authorize reimbursement to FOT for the following sums: (a) the California Cultural and Historic Endowment (CCHE) Proposition 40 Grant in the amount of \$2,887,500; and (b) the State Historic Preservation Office Grant in the amount of \$375,000; and

WHEREAS, FOT has successfully added to the above sources including: (1) \$1,064,250 in additional CCHE funds, (2) \$13,156,000 in Historic Tax Credits, (3) \$8,610,000 in New Markets Tax Credits, (4) \$726,500 in additional insurance proceeds; and (5) \$594,000 in HUD funding; and

WHEREAS, FOT has successfully secured new funding sources amounting to \$14.4 million; and

WHEREAS, the Agency evaluated the costs of renovating the Fox Theater and determined that in order to complete the project on schedule it will need to provide FOT with a bridge loan in the amount of \$7,450,000; and

WHEREAS, the bridge loan is intended to be repaid with funds anticipated from: (1) Historic Tax Credits, (2) additional Prop 40 funding, (3) a HUD Grant, (4) a HUD Urban Infill Grant and, (5) a contribution from Friends of the Oakland Fox; and

WHEREAS, the Agency hereby finds and determines on the basis of substantial evidence in the record that the Initial Study and Mitigated Negative Declaration fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional environmental review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Initial Study/Mitigated Negative Declaration due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); now, therefore, be it

RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency does not necessitate preparation of a subsequent or supplemental EIR Section 15162 (subsequent EIRs and negative declarations); and be it further

RESOLVED: That the Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it further

RESOLVED: That the Agency hereby finds and determines that the Agency loan FOT for the Fox Theater Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Central District Redevelopment Project Area, conforms to the Central District Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that: (1) the Project will increase entertainment opportunities in the Central District; (2) the Project will provide necessary neighborhood-serving retail facilities lacking in the Central District; (3) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will help create a stable 24 hour community which will enhance the viability of retail businesses in the area; (5) the Project will redevelop a key underutilized site in the Central District; (6) the Project will improve environmental design within the Central District; and (7) the Project, once developed, will enhance depreciated and stagnant property values in the surrounding areas, and will encourage efforts to alleviate economic and physical blight conditions in the area; and be it further

RESOLVED: That the Agency hereby approves amending the Fox Theater Disposition and Development Agreement to authorize a loan in the amount of the \$7,450,000 under the terms and conditions set forth in this resolution; and be it further

RESOLVED: That funds totaling \$7,450,000 shall be allocated from Agency funds, organizations and projects and moved to separate Central District Operating Fund in the organization and new project number to be established as detailed in the table below:

Amount	Fund	Organization	Project	Description
\$4,676,474	9510	90411	00000	Accrued interest Funds 9532 and 9533
\$1,806,540	9510	Various	S00800	Unspent salary appropriations
\$53,904	9510	105320	A00610	Unspent salary appropriations
\$913,082	9521	NA	Fund Balance	Transfer - 9521 City Hall W Earthquake
\$7,450,000	9510	94800	TBD	Fox Theater Bridge Loan

and be it further

RESOLVED: That the Agency Administrator is authorized to negotiate, approve, and execute an appropriate amendment to the DDA; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID
AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

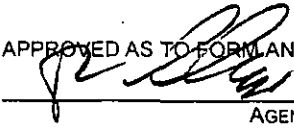
ATTEST: _____

LATONDA SIMMONS

Secretary of the Redevelopment Agency of
the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 JUN 26 PM 8:24

APPROVED AS TO FORM AND LEGALITY


AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AUTHORIZING THE AGENCY ADMINISTRATOR TO ENTER INTO A TENANT IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND GASS ENTERTAINMENT INC. IN AN AMOUNT NOT TO EXCEED \$2,000,000, TO FUND THE COMPLETION OF THE FOX THEATER RENOVATION PROJECT

WHEREAS, the Agency entered into a Disposition and Development Agreement (DDA) in December 15, 2006 with Fox Oakland Theater, Inc.(FOT) to ground lease and undertake the restoration of the Fox Theater and to provide loans to carry out the restoration; and

WHEREAS, in December 2006 Fox Theater Master Tenant LLC entered into a ten year lease agreement with GASS Entertainment LLC (Tenant) for the purpose of operating the Fox Theater as a live performing arts venue; and

WHEREAS, the tenant improvements for the theater space leased to GASS were budgeted at \$2.6 million plus change order contingencies; and

WHEREAS, the current costs of tenant improvement for the theater are \$5.9 million to fully meet modern theater equipment standards; and

WHEREAS, \$3.3 million in additional funding is required to complete the tenant improvements in the theater; and

WHEREAS, GASS has agreed to borrow \$1.3 million from the Fox Theater Master Tenant and fully amortize the loan from theater revenue if the Agency agrees to grant them an additional \$2.0 million to complete the tenant improvements; and

WHEREAS, the Agency hereby finds and determines on the basis of substantial evidence in the record that the Initial Study and Mitigated Negative Declaration fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially

significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional environmental review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Initial Study/Mitigated Negative Declaration due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); now, therefore, be it

RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency does not necessitate preparation of a subsequent or supplemental EIR Section 15162 (subsequent EIRs and negative declarations); and be it further

RESOLVED: That the Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it further

RESOLVED: That the Agency of Oakland hereby finds and determines that Agency grant to GASS for the Fox Theater Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Central District Redevelopment Project Area, conforms to the Central District Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that: (1) the Project will increase entertainment opportunities in the Central District; (2) the Project will provide necessary neighborhood-serving retail facilities lacking in the Central District; (3) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will help create a stable 24 hour community which will enhance the viability of retail businesses in the area; (5) the Project will redevelop a key underutilized site in the Central District; (6) the Project will improve environmental design within the Central District; and (7) the Project, once developed, will enhance depreciated and stagnant property values in the surrounding areas, and will encourage efforts to alleviate economic and physical blight conditions in the area; and be it further

RESOLVED: That the Agency hereby approves the grant to GASS Entertainment, Inc. in the amount of the \$2,000,000 under the terms and conditions set forth in this resolution; and be it further

RESOLVED: That Agency funds totaling \$2,000,000 shall be allocated from Central District 2003 Bonds (Fund 9532) from fund balance to Fox Theater GASS Grant in a new project number to be established in Fund 9532 Organization 94800; and be it further

RESOLVED: That the Agency Administrator is authorized to negotiate, approve, and execute an appropriate grant agreement; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN,
REID AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2009 JUN 26 PM 8:24

APPROVED AS TO FORM AND LEGALITY


AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AUTHORIZING THE AGENCY ADMINISTRATOR TO ENTER INTO A LOAN AGREEMENT BETWEEN THE AGENCY AND FOX THEATER MASTER TENANT, LLC IN AN AMOUNT NOT TO EXCEED \$2,700,000 TO FUND NEEDED TENANT IMPROVEMENTS IN THE FOX THEATER

WHEREAS, the Agency entered into a Disposition and Development Agreement (DDA) in December 15, 2006 with Fox Oakland Theater, Inc.(FOT) to ground lease and undertake the restoration of the Fox Theater and to provide loans to carry out the restoration; and

WHEREAS, Fox Theater Master Tenant therefore requests a \$2.7 million loan to cover tenant improvements in the theater and "Restaurant Space"; and

WHEREAS, in December 2006 Fox Theater Master Tenant LLC entered into a ten year lease agreement with GASS Entertainment, LLC for the purpose of operating the Fox Theater as a live performing arts venue; and

WHEREAS, the current costs of tenant improvements for the theater portion of the Fox Theater are estimated at \$5.9 million to fully meet modern theater equipment standards; and

WHEREAS, under the terms of the lease the Fox Theater Master Tenant as the landlord is responsible for constructing all of the Base Building Core and Shell Improvements, up to \$2.6 million, which includes \$500,000 provided by Gass Entertainment as the tenant; and,

WHEREAS, \$3.3 million in additional funding is required to complete the tenant improvements in the theater portion; and

WHEREAS, GASS Entertainment, has agreed to borrow \$1.3 million from the Fox Theater Master Tenant and fully amortize the loan from theater revenue

if the Agency agrees to grant them an additional \$2.0 million to complete the tenant improvements; and

WHEREAS, GASS has agreed to borrow the \$1.3 million at market rate (prime plus 2% or 7% at the current rate) and fully amortize the loan over the 15 year term of the lease, portions of which may be deferred for 3 to 5 years; and

WHEREAS, a portion of the Fox Theater on 18th Street and Telegraph Avenue will be leased as a restaurant (the "Restaurant Space"); and

WHEREAS, the project never had funds to complete tenant improvements for the Fox Theater's the "Restaurant Space" on 18th and Telegraph of which the landlord's (Fox Theater Master Tenant) are currently estimated to be approximately \$1.4 million; and

WHEREAS, Fox Theater Master Tenant has proposed to borrow \$1,140,000 from the Agency to cover the landlord's portion of the tenant improvements for the "Restaurant Space"; and

WHEREAS, Fox Theater Master Tenant requests an additional \$260,000 from the Agency to loan to the tenant of the "Restaurant Space" to encourage greater investment in the tenant improvement; and

WHEREAS, the \$260,000 would be loaned at market rate (prime plus 2% or 7% at the current rate) and be fully amortize over the term of the lease; and

WHEREAS, Fox Theater Master Tenant will pledge all revenue from the \$260,000 loan to the tenant of the restaurant space to the Agency; and

WHEREAS, the Agency hereby finds and determines on the basis of substantial evidence in the record that the Initial Study and Mitigated Negative Declaration fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional environmental review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Initial Study/Mitigated Negative Declaration due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); now, therefore, be it

RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this

action complies with CEQA because this action on the part of the Agency does not necessitate preparation of a subsequent or supplemental EIR Section 15162 (subsequent EIRs and negative declarations); and be it further

RESOLVED: That the Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it further

RESOLVED: That the City of Oakland hereby finds and determines that the Agency loan to Fox Theater Master Tenant for the Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Central District Redevelopment Project Area, conforms to the Central District Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that: (1) the Project will increase entertainment opportunities in the Central District; (2) the Project will provide necessary neighborhood-serving retail facilities lacking in the Central District; (3) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will help create a stable 24 hour community which will enhance the viability of retail businesses in the area; (5) the Project will redevelop a key underutilized site in the Central District; (6) the Project will improve environmental design within the Central District; and (7) the Project, once developed, will enhance depreciated and stagnant property values in the surrounding areas, and will encourage efforts to alleviate economic and physical blight conditions in the area; and be it further

RESOLVED: That the Agency hereby approves the loan to Fox Theater Master Tenant in the amount of the \$2,700,000 under the terms and conditions set forth in this resolution; and be it further

RESOLVED: That funds totaling \$2,700,000 shall be allocated from Agency funds, organizations and projects and moved to separate City Center Land Sales Fund in the organization and new project number to be established as detailed in the table below:

\$Amount	Fund	Organization	Project	Description
\$787,702	9511	NA	Fund Balance	City Center Land Sales Fund
\$1,396,014	9511	94800	P126950	City Center West Garage Debt Service
\$228,903	9511	94800	P118520	10K Housing
\$287,381	9511	94800	G150210	Chinatown Hotel Environmental Clean-Up
\$2,700,000	9511	94800	TBD	City Center West Garage Debt Service

and be it further

RESOLVED: That the Agency Administrator is authorized to negotiate, approve, and execute an appropriate loan documents; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN,
REID AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS

Secretary of the Redevelopment Agency
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 JUN 26 PM 8:24

APPROVED AS TO FORM AND LEGALITY

AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AUTHORIZING THE AGENCY ADMINISTRATOR TO ENTER INTO A LOAN AGREEMENT BETWEEN THE AGENCY AND THE OAKLAND SCHOOL FOR THE ARTS IN AN AMOUNT NOT TO EXCEED \$2,300,000 TO FUND THE TENANT IMPROVEMENTS IN THE NEW WRAP-AROUND PORTION OF THE BUILDING

WHEREAS, the Agency entered into a Disposition and Development Agreement (DDA) in December 15, 2006 with Fox Oakland Theater, Inc.(FOT) to ground lease and undertake the restoration of the Fox Theater and to provide loans to carry out the restoration; and

WHEREAS, on December 18, 2006 Fox Oakland Theater Inc. (FOT) executed a seven and one-half year lease with Oakland School for the Arts (OSA) for a portion of the Fox Theater commonly referred to as the wrap-around building to be used as the permanent home of the OSA; and

WHEREAS, the lease outlines both Landlord (FOT) and Tenant (OSA) responsibilities and financial obligations for improving the building; and

WHEREAS, FOT is responsible for delivering a base building, core and shell (walls, mechanical, electrical and plumbing) in both the historic portion and the new portion of the wrap-around building; and

WHEREAS, OSA has funds sufficient for the tenant improvements and the furniture, fixtures and equipment (FF&E) in the historic wrap-around building, but not in the new wrap-around building; and

WHEREAS, in April 2008 OSA signed a construction contract with Turner Construction of approximately \$4,000,000 to complete the tenant improvements in the new wrap-around building; and

WHEREAS, OSA has cash on hand in an amount of approximately \$1,700,000 and is anticipating new funds in the form of grants and future fund raising efforts needed to complete the tenant improvements; and

WHEREAS, OSA needs an additional \$2,300,000 to fund the tenant improvements and complete the project in time for the 2008 school year and before new funds are available; and

WHEREAS, in the next two years OSA is expecting additional funds in the form of grants and future fund raising efforts in an amount needed to pay back the \$2,300,000; and

WHEREAS, the loan will be for a 3 year term with an interest rate 5 percent, the Agency's cost of funds on the recent bond issues; and

WHEREAS, OSA will pledge the proceeds from a second billboard in the Port area in the event it is not able to raise sufficient funds to repay the loan;

WHEREAS, the Agency hereby finds and determines on the basis of substantial evidence in the record that the Initial Study and Mitigated Negative Declaration fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional environmental review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Initial Study/Mitigated Negative Declaration due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); now, therefore, be it

RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency does not necessitate preparation of a subsequent or supplemental EIR Section 15162 (subsequent EIRs and negative declarations); and be it further

RESOLVED: That the Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it further

RESOLVED: That the Agency hereby finds and determines that the Agency loan to OSA for tenant improvements for the Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Central District Redevelopment Project Area, conforms to the Central District Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that: (1) the Project will increase entertainment opportunities in the Central District; (2) the Project will provide necessary neighborhood-serving retail facilities lacking in the Central District; (3) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will help create a stable 24 hour community which will enhance the viability of retail businesses in the area; (5) the Project will redevelop a key underutilized site in the Central District; (6) the Project will improve environmental design within the Central District; and (7) the Project, once developed, will enhance depreciated and stagnant property values in the surrounding areas, and will encourage efforts to alleviate economic and physical blight conditions in the area; and be it further

RESOLVED: That the Agency hereby approves the loan to OSA in the amount of the \$2,300,000 under the terms and conditions set forth in this resolution; and be it further

RESOLVED: That funds totaling \$2,300,000 shall be allocated from various Agency Central District Capital Funds, organizations and projects and moved to the various funds, organization and new project numbers to be established as detailed in the table below:

Amount	Fund	Organization	Project	Description
\$400,000	9535	NA5	Fund Balance	Central District 2006-T Bonds
\$700,000	9512	VA	Fund Balance	Chinatown Land Sales
\$328,046	9562	9562	P167330	Preservation Park Operations Project
\$871,954	9562	NA	Fund Balance	Preservation Park Operations
\$2,300,000	Various	94800	TBD	Fox Oakland School for the Arts Loan

and be it further

RESOLVED: That the Agency Administrator is authorized to negotiate, approve, and execute appropriate loan documents; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN,
REID AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 JUN 26 PM 8:25

APPROVED AS TO FORM AND LEGALITY

AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AUTHORIZING THE AGENCY ADMINISTRATOR TO APPLY FOR, ACCEPT AND APPROPRIATE GRANT FUNDS FROM THE FOLLOWING: (1) CALIFORNIA CULTURAL AND HISTORICAL ENDOWMENT GRANT IN AN AMOUNT NOT TO EXCEED \$1,400,000; (2) DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT INFILL INFRASTRUCTURE GRANT IN AN AMOUNT NOT TO EXCEED \$10,000,000; AND A FEDERAL HOUSING AND URBAN DEVELOPMENT GRANT IN AN AMOUNT NOT TO EXCEED \$3,000,000

WHEREAS, the Agency entered into a Disposition and Development Agreement (DDA) in December 15, 2006 with Fox Oakland Theater, Inc.(FOT) to ground lease and undertake the restoration of the Fox Theater and to provide loans to carry out the restoration; and

WHEREAS, the Agency has applied for a California Department of Housing and Community Development Infill Grant and is anticipating applying for a California Cultural and Historical Endowment Grant and a Federal Housing and Urban Development EDI Grant as new sources of funding for the Fox Theater Project; and

WHEREAS, funds from these grants will be used to help repay an Agency bridge loan in the amount of \$7,450,000 which is needed to complete the project on schedule; and

WHEREAS, the Agency hereby finds and determines on the basis of substantial evidence in the record that the Initial Study and Mitigated Negative Declaration fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional environmental review as specified in CEQA

and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Initial Study/Mitigated Negative Declaration due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); now, therefore, be it

RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency does not necessitate preparation of a subsequent or supplemental EIR Section 15162 (subsequent EIRs and negative declarations); and be it further

RESOLVED: That the Agency Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it further

RESOLVED: That the Agency hereby finds and determines that the Agency acceptance of the grants for the Fox Theater Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Central District Redevelopment Project Area, conforms to the Central District Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that: (1) the Project will increase entertainment opportunities in the Central District; (2) the Project will provide necessary neighborhood-serving retail facilities lacking in the Central District; (3) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will help create a stable 24 hour community which will enhance the viability of retail businesses in the area; (5) the Project will redevelop a key underutilized site in the Central District; (6) the Project will improve environmental design within the Central District; and (7) the Project, once developed, will enhance depreciated and stagnant property values in the surrounding areas, and will encourage efforts to alleviate economic and physical blight conditions in the area; and be it further

RESOLVED: That if the Department of Housing and Community Development Infill Grant, California Cultural and Historical Endowment Grant and a Federal Housing and Urban Development EDI Grant applications are approved, the Agency Administrator is authorized to accept and appropriate all funds received to the Central District Grants Fund (9215), Capital Improvement Project – Economic Development Organization (94800), in new projects; and be it further

RESOLVED: That the Agency Administrator is authorized to negotiate, approve, and execute all appropriate grant agreements; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN,
REID AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS

Secretary of the Redevelopment Agency
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 JUN 26 PM 8:25

APPROVED AS TO FORM AND LEGALITY

AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AUTHORIZING THE AGENCY ADMINISTRATOR TO ACCEPT AND APPROPRIATE \$68,750 IN HISTORIC MITIGATION FUNDS FROM SIGNATURE AT BROADWAY GRAND LLC, FOR THE FOX THEATER PROJECT

WHEREAS, in May 2008 the Oakland Planning Commission required a historic mitigation fee from Signature at Broadway Grand LLC (Signature) for removing a historic building façade at 23rd Street and Valley Street in the Uptown District of Oakland in order to accommodate a new housing development; and

WHEREAS, the Planning Commission mitigation fee was established in the amount of \$68,750; and

WHEREAS, the Planning Commission assigned the mitigation fee to the Fox Theater Project; and

WHEREAS, the Agency hereby finds and determines on the basis of substantial evidence in the record that the Initial Study and Mitigated Negative Declaration fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional environmental review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Initial Study/Mitigated Negative Declaration due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant

effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); now, therefore, be it

RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency does not necessitate preparation of a subsequent or supplemental EIR Section 15162 (subsequent EIRs and negative declarations); and be it further

RESOLVED: That the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it further

RESOLVED: That the Agency hereby finds and determines that the Agency acceptance of the Signature mitigation grant for the Fox Theater Project furthers the purposes of the California Community Redevelopment Law, contributes to the elimination of blight in the Central District Redevelopment Project Area, conforms to the Central District Redevelopment Plan, including its Implementation Plan, and furthers the goals and objectives of said Redevelopment Plan in that: (1) the Project will increase entertainment opportunities in the Central District; (2) the Project will provide necessary neighborhood-serving retail facilities lacking in the Central District; (3) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (4) the Project will help create a stable 24 hour community which will enhance the viability of retail businesses in the area; (5) the Project will redevelop a key underutilized site in the Central District; (6) the Project will improve environmental design within the Central District; and (7) the Project, once developed, will enhance depreciated and stagnant property values in the surrounding areas, and will encourage efforts to alleviate economic and physical blight conditions in the area; and be it further

RESOLVED: the Agency Administrator is authorized to accept and appropriate \$68,750 to the Central District Operations Fund (9510) in Organization 94800, and in a new Project to be created; and be it further

RESOLVED: That all documents related to this transaction shall be reviewed and approved by Agency Counsel prior to execution, and copies will be placed on file with the Agency Secretary; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN,
REID AND CHAIRPERSON DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California