



# AGENDA REPORT

**TO:** Steven Falk  
Interim City Administrator

**FROM:** Sofia Navarro  
Interim Director of  
Economic & Workforce  
Development

**SUBJECT:** Fox Theater Restaurant Lease

**DATE:** March 22, 2023

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City Administrator Approval

Date:

Mar 29, 2023

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## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt An Ordinance Authorizing The City Administrator To (A) Negotiate And Execute A Lease Agreement With Uptown Forward LLC, A California Limited Liability Corporation, For The Ground Floor Restaurant Space Located At 1805 Telegraph Avenue (Fox Theater) For A 3-Year Term With Three 5-Year Options And Rent Of Ten Thousand Five Hundred Dollars (\$10,500) Per Month With Three Percent (3%) Annual Increase For Use As A Cocktail Lounge With Food Service; And (B) Adopting California Environmental Quality Act Findings**

## **EXECUTIVE SUMMARY**

The proposed ordinance would authorize the City of Oakland (City) to enter into a lease of the ground-floor restaurant space (Premises) at the City-owned Fox Oakland Theater (Fox Theater) at 1805 Telegraph Avenue to Uptown Forward LLC (Uptown Forward) for operation of a new cocktail lounge with food service. The initial term would be for 3-years with three 5-year options to extend. The premises includes approximately 4,503 square feet of interior space and 444 square feet of exterior patio space. It has been occupied by the Emporium Arcade Bar (Emporium) since August 2018 and Emporium recently exercised its right to terminate its lease effective April 1, 2023. The proposed new cocktail lounge would replace Emporium and double the rent level, paying a current fair market rate of \$10,500 per month subject to annual escalations of 3% throughout the term.

## **BACKGROUND / LEGISLATIVE HISTORY**

The Fox Theater is an approximately 140,000 square foot historic theater in the Uptown neighborhood that was built in the 1920s and acquired and renovated by the Oakland Redevelopment Agency in the early 2000s. It houses three tenants: GASS, Inc., an affiliate of Another Planet Entertainment, which operates the performing arts venue; Oakland School for Arts, a grade 6-12 public charter school serving over 800 students with an immersive arts

program; and the Emporium Arcade Bar (Emporium). The Fox Theater and its tenants are critical components of Oakland's arts and culture sector and contribute to the vitality and economic health of the Uptown neighborhood.

On December 15, 2020, the Oakland Redevelopment Successor Agency (ORSA) transferred the Fox Theater by grant deed to the City pursuant to [Ordinance No. 13629 C.M.S.](#) Additionally, on December 15, 2020, the Fox Oakland Theater, Inc. (FOT) assigned its interests in subleases with Emporium Oakland LLC (Emporium), the Oakland School for the Arts, and GASS Entertainment, LLC, to the City pursuant to [Ordinance No. 13630 C.M.S.](#) The City uses the rent collected from the three tenants to pay for costs associated with the Fox Theater, including needed capital improvements.

Emporium entered into a lease of the Premises in August 2018 to operate a restaurant, bar and arcade, primarily during evening operating hours. The base rent started at \$9,231.15 per month, subject to annual escalations. The business was heavily impacted by the pandemic and in June 2021 the lease was amended to temporarily reduce the rent by 50% through March 31, 2023, at which point Emporium would have the right to terminate the lease if it was not able to resume fair market rent payments.

Emporium has exercised its termination right and is operating on a limited month to month basis until a successor tenant is secured. Emporium hired a broker to market the space at its expense, found a qualified successor tenant with Uptown Forward, and is willing to sell its assets, including a liquor license, to Uptown Forward, subject to the City's approval of a new lease of the Premises to Uptown Forward. All of this allows the new business to open more quickly and minimize the time the space is closed.

Uptown Forward proposes to "re-invent the space... as an elevated cocktail lounge with food and wine." It proposes to pay for more than \$130,000 in interior renovations including to the bar, bathrooms and flooring. The Uptown Forward team is comprised of individuals with substantial, successful experience in the bar and entertainment industries in Oakland and San Francisco. The lead partner owns and operates a successful bar, Hello Stranger, at 1724 Broadway in Oakland and is active in the downtown and broader Oakland business community. The concept includes daytime food service through third-party partnerships (e.g., pop-up restaurants), when supported by market conditions, to maximize activation of the space and bring activity to the neighborhood during daytime hours as well, an important part of the proposal.

Staff in the City's Economic and Workforce Development Department - Real Estate Division evaluated Uptown Forward's financial capacity and credit report and found no irregularities. Staff has determined that Uptown Forward has sufficient cash reserves to complete the proposed build-out and has sufficient income to pay the proposed rent.

Rent under the proposed lease would resume at a level slightly above what the Emporium lease would otherwise have reverted to after the end of the rent reduction period in April 2023, or \$10,500 per month, subject to an annual escalation of 3%. This amount is consistent with the current fair market rent. The lease would have an initial 3-year term with three 5-year options to extend for a total of 18 years. And it would include an initial five-month rent abatement period while Uptown Forward makes improvements to the Premises.

## **ANALYSIS AND POLICY ALTERNATIVES**

The recommended ordinance would allow the City to immediately replace the outgoing tenant with a new, qualified tenant committed to paying fair market rent for the space. This new lease would double the amount of rent currently being paid and thereby contribute to the financial sustainability of the Fox Theater.

The proposed use is compatible with the other uses in the Fox Theater. Daytime food service would provide an option for students and staff at the Oakland School for the Arts as well as other daytime workers and visitors to the Uptown/Downtown neighborhood. The evening cocktail lounge would complement nighttime performing arts activity in the theater and contribute a nighttime activation to the neighborhood.

The proposed tenant has a proven track record for operating a financially viable bar and entertainment venue in the same neighborhood and has the financial wherewithal to implement their proposed concept in the space. The tenant would invest in improvements to the Premises.

The retail sector in the Downtown/Uptown neighborhood has not recovered to pre-pandemic levels. This limits the City's options and the rent potential for the Premises. Despite this challenge, Emporium undertook a marketing effort at no cost to the City and found a qualified tenant able to resume paying fair market rent.

In the alternative, the City could choose not to enter into the proposed lease and instead seek to market the space itself. This would require expenditure of City funds on marketing activities as well as the opportunity cost for the staff time required. The City's Real Estate staff do not believe this would result in substantially better lease terms. In the alternative, Emporium would likely cease operations in April, leaving the space empty, the Premises could lose its liquor license, which otherwise enhances its marketability, and the City would lose revenue used to pay for costs associated with the Fox Theater. The space would likely sit vacant for an extended amount of time.

Approval of the recommended action would advance the Citywide priority of **housing, economic, and cultural security** by enabling a new small business to open in Downtown Oakland.

## **FISCAL IMPACT**

The proposed ordinance would double the amount of rent the City is collecting from the Premises since the beginning of the pandemic to \$10,500 per month, subject to an annual escalation of 3%, after an initial five-month rent abatement period. The funds would be deposited in Central District TA Bonds Series 2006T Fund (5614), Real Estate Organization (85231), Miscellaneous Rental Revenue Account (44419), Fox Theater Capital Project (1005784), Real Estate Program (PS32) and used to pay for costs associated with the Fox Theater.

## **PUBLIC OUTREACH / INTEREST**

The proposed lease will be considered at public meetings of the City Council's Community and Economic Development Committee and of the full City Council, all subject to standard City Council public noticing provisions.

## **COORDINATION**

This report and legislation were prepared by the Economic and Workforce Development Department's Real Estate Division and reviewed by the Office of the City Attorney and the Budget Bureau.

## **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The proposed lease would bring a new business to the Uptown/Downtown neighborhood, replacing a business that is closing, paying market-rate rent to the City as well as sales tax. It would provide day and nighttime food and beverage service in support of workers, visitors and other businesses in the neighborhood.

***Environmental:*** The proposed lease would continue an existing use and is not expected to have negative environmental impacts. To the contrary, it would help bring activity to a walkable, transit-rich neighborhood.

***Race & Equity:*** The proposed lease would revitalize a restaurant space in a neighborhood identified as "High Priority" according to Oakland Department of Transportation's Geographic Equity Toolbox, where 72 percent of residents are people of color and 52 percent are low income. It would provide daytime food service for students and staff at the Oakland School for the Arts, a public charter school where 62 percent of the student body identifies as Black, Indigenous or Person of Color.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

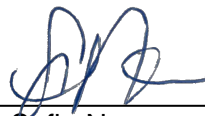
Approval of this legislation will not result in any major changes to the space and therefore this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (existing facilities).

## **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt An Ordinance Authorizing The City Administrator To (A) Negotiate And Execute A Lease Agreement With Uptown Forward LLC, A California Limited Liability Corporation, For The Ground Floor Restaurant Space Located At 1805 Telegraph Avenue (Fox Theater) For A 3-Year Term With Three 5-Year Options And Rent Of Ten Thousand Five Hundred Dollars (\$10,500) Per Month With Three Percent (3%) Annual Increase For Use As A Cocktail Lounge With Food Service; And (B) Adopting California Environmental Quality Act Findings

For questions regarding this report, please contact Brendan Moriarty, Real Property Asset Manager, at (510) 238-6354.

Respectfully submitted,



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