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OFFICE OF THE CITY CLERK  
OAKLAND

# CITY OF OAKLAND

## AGENDA REPORT

2009 MAY 14 PM 4: 24

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: May 26, 2009

**RE: A Report and Possible Action on the Status of Negotiations and Proposals for the Use of the Henry J. Kaiser Center**

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### SUMMARY

Staff have prepared this report in response to the Community and Economic Development ("CED") Committee's request for updates on options for the future re-use of the Henry J. Kaiser Center, located on 10<sup>th</sup> Street near Lake Merritt. On May 6, 2008, the City Council directed staff to negotiate exclusively with Live Nation Entertainment ("Live Nation") to operate the facility and bring live entertainment back to the Henry J. Kaiser Center (the "Kaiser Center"). At the CED Committee meeting of February 10, 2009, staff was asked to continue these negotiations, and to broaden discussions to include possible cooperation with Peralta College and the Alliance for Performing Arts, which includes the Oakland East Bay Symphony and the Oakland Ballet.

This report updates the status of those negotiations, provides information on the costs which would be required to re-open the Kaiser Center, and seeks further Council direction on how to proceed.

### FISCAL IMPACT

This report provides information for consideration of possible future actions only, and as such has no fiscal impact. The repairs needed to re-open the Kaiser Center as a live entertainment facility are estimated to cost between \$2.8 million and \$5.5 million. Current Council direction to staff is that no City or Redevelopment Agency funds be used for this purpose.

### BACKGROUND

The Kaiser Center was closed to the public at the end of 2005. During its last five years of activity (2000-2005), the Kaiser Center's operating losses were approximately \$400,000 to \$600,000 per year. The City is currently spending approximately \$100,000 per year for maintenance, repairs and other expenses required for the City to meet its fiduciary responsibility to maintain the building at a minimum standard. This includes upkeep of the electrical and water systems, general maintenance, and some staffing.

Since May 2008, per Council direction, staff have been in discussions with Live Nation regarding its possible operation of a re-opened Kaiser Center. Live Nation (formerly Bill

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Graham Presents) is the largest producer of live concerts worldwide, with 26,000 events connecting with 60 million fans and artists each year. Live Nation of Northern California has been the leading event promoter in the San Francisco Bay Area and Northern California since 1965. Its venues in the region include the historic Fillmore, the Warfield Theater, Cobb's Comedy Club and the Punch Line Comedy Club, all in Downtown San Francisco, the Shoreline Amphitheatre in Mountain View, and the Sleep Train Pavilion in Concord. Live Nation also operates facilities similar to the Kaiser Center in a number of cities nationwide, including New York, Denver, Miami, Detroit, and Philadelphia.

As directed by the CED Committee in February of this year, staff's discussions with Live Nation have expanded to include Peralta College and the Alliance of Performing Arts. These negotiations include a possible partnership under which Live Nation would operate the Kaiser Center arena while making the Center's Calvin Simmons Theater and adjoining ballrooms available for use by the Oakland East Bay Symphony and other local performing arts entities.

## KEY ISSUES AND IMPACTS

### Costs for Kaiser Center re-opening

CEDA Staff and City of Oakland Engineers conducted a site visit on February 27, 2009 to refine and update the list of repairs necessary to re-open the facility at a level sufficient for possible use by Live Nation Entertainment and Peralta College. Staff conducted another walk-through on March 27, 2009 with representatives from Quality Air Services, 1701 Associates Construction Management, and Critical Engineering Group, to get their independent professional estimates of facility re-opening costs. All parties agree that the facility suffers from over twenty years of deferred maintenance neglect to the building and its major systems.

The following are estimates from these assessments of the costs of repairs and equipment replacements necessary for re-use of the facility in the short term:

Detail clean up of facility	\$ 28,650
Boiler replacement	\$ 850,000
Supply duct systems for public and bathroom	\$ 254,000
Exhaust duct systems for public places	\$ 43,000
Repairs to hydraulic elevators/orchestra pit	\$ 475,000
Emergency generator	\$ 325,000
Refinish wood flooring under 1 <sup>st</sup> floor seats	\$ 24,560
Lighting upgrades/improve egress	\$ 175,000
Refurbish all 18 bathrooms	\$ 180,000
Exterior building cleaning	\$ 19,450
Clean carpets	\$ 9,600
Concession stand repairs	\$ 15,000

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Painting	\$ 264,000
Security system	\$ 164,090
<b>Total Cost</b>	<b>\$ 2,827,350</b>

Longer-term use of the facility would involve additional capital expenditures beyond the immediate needs estimated above. Such potential costs would need to be considered over a longer time period, and could include:

New air conditioning	\$ 600,000
Change over pneumatic electronic controls	\$ 130,000
Electrical systems	\$ 800,000
Basement main switch gear to arena/theatre	\$ 325,000
Theater seats upgrade	\$ 555,000
New carpet	\$ 157,356
Replace hardwood floor	\$ 37,100
Refinish theater stage	\$ 17,500
<b>Total Cost</b>	<b>\$ 2,716,956</b>

Slight differences between the estimates shown above and previous information presented to Council are due to the greater detail and the distinction between immediate and longer-term expenses presented in this report. Though the Kaiser Center is a historic structure, staff has concluded that so long as the repairs and equipment upgrades do not disturb the building's exterior, no special approvals would be required.

#### Possible Operating Partnership

The expanded negotiations between staff, Live Nation, and Peralta College following the February CED Committee meeting have been fruitful. A tentative framework for an operating partnership has been developed, under which Live Nation would operate the Kaiser Center arena and Peralta College would operate the Calvin Simmons Theater on behalf of the Alliance for the Performing Arts. Live Nation would be responsible for the management and upkeep of the arena, which can hold up to 8,000 people for concert events, including the installation and maintenance of equipment required for concerts and other events held in the arena. Peralta College would be the lead organization representing the Alliance of Performing Arts organizations, including the Oakland East Bay Symphony and the Oakland Ballet. Peralta would coordinate the use and activities of the Calvin Simmons Theatre and adjoining ballrooms, and would be responsible for the maintenance and upkeep of the theatre.

In addition to the development of a structure and general levels of responsibility, Live Nation Entertainment and Peralta College have tentatively agreed to the following framework for moving forward:

- A 10 year lease term to operate the facility
- Hosting year-round events
- The agreement with Peralta and the Alliance would be cost covering
- The agreement with Live Nation would be cost covering, and would include a monetary benefit agreement with the City and the Redevelopment Agency

### **PROGRAM DESCRIPTION**

Staff continues to explore the creation of a Performance Arts Center at the Kaiser Center in partnership with Live Nation and Peralta College. Staff recently meet with Conductor Michael Morgan of the Oakland East Bay Symphony and Jennifer Duston, Executive Director of the Oakland East Bay Symphony, to discuss their potential role and possible use of the Calvin Simmons Theatre. The Symphony is excited about this opportunity, and has identified a number of other organizations which have expressed interest in hosting events at the Calvin Simmons Theatre. Among a number of entities, the Performing Arts Alliance currently includes:

- Oakland East Bay Symphony
- Oakland Ballet
- Oakland Youth Chorus
- Festival Opera (Walnut Creek)
- Oakland Symphony Choirs

Additional performing arts groups which could join the Alliance in the future, and/or co-host events at the Calvin Simmons:

- Berkeley Repertory Theatre
- The Crucible
- Oakland Interfaith Choirs
- As many as 47 other arts performing organizations

Peralta College and Live Nation are both prepared to invest into the facility for repairs and equipment replacement. The Oakland Symphony has indicated that it could potentially participate monetarily at a later date by way of a Capital Campaign of fund raising, which could take from one to three years. However, City staff believe that the total funds potentially available from those entities are unlikely to cover all of the repair and equipment upgrade costs described earlier in this report. Staff are in the process of determining options for partial, incremental opening of the facility in a circumstance where one partner had funds with which to move forward while other partners had not yet raised sufficient funds for their portions.

Given the current complexities of the project and the amount of resources required to bring the facility up to the point where it can be a useable Center, staff recommends considering an extension of the term of the lease agreement. This would allow Live Nation as the primary leasing party the opportunity to phase in critical repairs, provide an opportunity to recover their investment over time, and guarantee a long-term tenant for the City.

City departments involved in crafting the strategy for returning the Kaiser Center to a prominent role in Oakland's entertainment and arts communities include CEDA's Economic Development and Redevelopment Division, the Public Works Agency, and the Office of the Mayor.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Renewed operation of the Henry J. Kaiser Center would enhance Oakland's network of entertainment venues, which would bring more patrons to events in Oakland, generate revenue to the City, and support Oakland's performing arts organizations.

**Environmental:** There is no impact on the environment anticipated from this program.

**Social Equity:** Live Nation and Peralta College will embrace the rich cultural history of Oakland and support those activities that further enhance Oakland's strong cultural and youth-orientated programs and activities.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The Kaiser Center is accessible to a variety of local transportation and is located two blocks from the Lake Merritt BART station. The facility does not present barriers to the physically challenged. Any repairs to the facility will be compliant with ADA standards.

### **RECOMMENDATIONS AND RATIONALE**

Staff recommends that Council authorize staff to continue negotiations towards agreement on a Kaiser Center re-use plan for presentation to the Council, including:

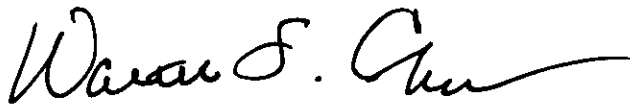
1. Agreement on a rehabilitation program which would bring the Kaiser Center into operating condition.
2. Agreement on a performance schedule with all parties which would work financially for Live Nation, and which would work logistically for all approved negotiating parties: Live Nation, Peralta College, and the Performing Arts Alliance as led by the Oakland East Bay Symphony.
3. Determination of the financial feasibility of making all required repairs, with agreement about the amounts and timing of financial contributions from all potential partners.

4. Agreement on all standard terms and business provisions which would be included in any formal agreement to be presented for Council approval.
5. Direction to staff to explore opportunities for non-City/Agency funding sources which could augment resources to be contributed by the partners.

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

Staff asks that the Council authorize continued negotiations to develop a tentative agreement with Live Nation and Peralta College, representing the Alliance for Performing Arts and including the Oakland Symphony, and to return to Council for further direction and possible action in September 2009.

Respectfully submitted,

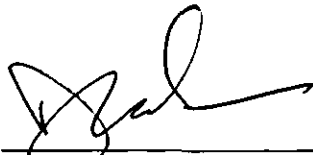


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APPROVED AND FORWARDED TO  
THE COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE:



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