



AGENDA REPORT

TO: Jestin D. Johnson,
City Administrator

FROM: Ashleigh Kanat
Director, Economic &
Workforce Development
Department

SUBJECT: Expansion of the Oakland School for
the Arts Lease at the Fox Theater

DATE: September 18, 2024

City Administrator Approval

Date:


Jestin Johnson (Sep 24, 2024 13:50 PDT)

Sep 24, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Amending Ordinance No. 13734 C.M.S. To: (1) Authorize A Lease Amendment Between The City Of Oakland And The Oakland School For The Arts (OSA) To Add The 4,503 Square Foot Ground Floor Former Restaurant Space At 1805 Telegraph Avenue (Fox Theater) For Improvement And Use As A Retail Store, Art Gallery, and Radio Station At A Rate Of Two Thousand Six Hundred Eighty Seven Dollars and Fifty Cents (\$2,687.50) Per Month Until June 30, 2025 And Then Four Thousand Three Hundred Seventy Seven Dollars and Twenty Five Cents (\$4,377.25) Per Month Through June 30, 2026; (2) Making Findings That The Lease Amendment For Below Fair Market Value Is In The Best Interest Of The City; And (3) Making Appropriate California Environmental Quality Act Findings

EXECUTIVE SUMMARY

The Oakland School for the Arts (OSA) is a public charter school based in the historic, Fox Oakland Theater (Fox Theater) owned by the City of Oakland (City) and located in the Uptown neighborhood. It serves more than 800 students in grades six through 12 through an immersive arts curriculum that includes visual arts, theater, dance, music, and other artistic disciplines. OSA is also a critical contributor to both Oakland's arts and culture sector and the vitality and economic health of the Uptown neighborhood. The proposed ordinance would authorize an amendment to OSA's existing lease at the Fox Theater to include the vacant ground floor former restaurant space (Ground Floor Premises) at the building's southeast corner at Telegraph Avenue and 17th Street. OSA would use this additional space for a retail store and art gallery as well as a radio station through the end of OSA's existing lease term, which ends on June 30, 2026.

BACKGROUND / LEGISLATIVE HISTORY

The historic Fox Oakland Theater located at 1805 Telegraph Avenue is an approximately 140,000 square foot historic theater in Oakland's Uptown neighborhood. It was built in the 1920s and was acquired and renovated by the Oakland Redevelopment Agency in the early 2000s.

In 2006, OSA executed a lease (OSA Lease) with the City-affiliated non-profit Fox Oakland Theater, Inc. (FOT) as the then master tenant of the Fox Theater and landlord for approximately 62,910 square feet of the Fox Theater to operate a public charter school. OSA was founded in 2002, serves over 800 students in grades six through 12 and is tuition-free. OSA serves students across the Bay Area and 72 percent of students are residents of Oakland.

In August 2018, Emporium Oakland LLC (Emporium) executed a lease with FOT to operate a restaurant, bar and arcade in the Ground Floor Premises, an approximately 4,503-square foot ground floor restaurant space with 444 square feet of exterior patio space in the Fox Theater's southeast corner at the intersection of Telegraph Avenue and 18th Street. Emporium exercised its right to terminate this lease effective April 1, 2023 and has vacated the premises.

On June 22, 2021, the Oakland Redevelopment Successor Agency (ORSA) transferred fee ownership of the Fox Theater by grant deed to the City pursuant to [Ordinance No. 13629 C.M.S.](#) This acquisition was subject to the subleases with the existing tenants at the Fox Theater, including OSA and Emporium, pursuant to [Ordinance No. 13630 C.M.S.](#)

On May 2, 2023, City Council authorized a lease of the Ground Floor Premises to Uptown Forward LLC (Uptown Forward) for use as a cocktail lounge with food service for \$10,500 per month pursuant to [Ordinance No. 13735 C.M.S.](#) Uptown Forward was subsequently unable to agree to lease terms with the City and no such lease was executed. The Ground Floor Premises remains vacant.

On May 2, 2023, City Council authorized an amendment to the OSA Lease to extend the then existing, below market rental rate of \$47,025 per month through the end of the lease term on June 30, 2026, pursuant to [Ordinance No. 13734 C.M.S.](#) The recommended action would modify this ordinance.

On July 1, 2023, pursuant to [Ordinance No. 13736 C.M.S.](#), OSA entered into a license agreement with the City to improve and utilize the City-owned vacant lot across the street from the Fox Theater at 1911 Telegraph as an outdoor recreation area for an initial three-year term with three one-year options to extend.

ANALYSIS AND POLICY ALTERNATIVES

The proposed ordinance would authorize an amendment to the OSA Lease to add the Ground Floor Premises to OSA's overall leased premises. This would allow OSA to use the Ground Floor Premises for a publicly accessible OSA merchandise store and art gallery featuring student art work, youth-run radio station (KOSA) and student-run record label (1819 Records). The existing rental rate for the OSA Lease of approximately \$0.75 per square foot would apply

to the Ground Floor Premises. OSA plans to occupy the Ground Floor Premises in phases such that the rent would be \$2,687.50 per month until June 30, 2025 and then \$4,377.25 per month through the end of the term on June 30, 2026.

As further discussed in the agenda report for Ordinance 13734 C.M.S., the rental rate under the OSA Lease is below market. However, this below-market rent is offset by the contributions and value of OSA to the Fox Theater, the Uptown neighborhood, and Oakland more broadly. As a long-term anchor tenant at the Fox Theater, OSA has helped stabilize the building and brought consistent activity and vitality to Downtown Oakland, particularly as Downtown has continued to recover from the COVID-19 pandemic. In addition, OSA serves a diverse student body, with nearly 65 percent of its students identifying as people of color. To further increase its diversity and ensure it serves low-income youth, OSA recently implemented a lottery system and launched its Step It Up program, which helps prepare Black, Indigenous and people of color youth from Title 1 elementary schools for OSA, providing free artistic preparation. OSA has long been a critical contributor to Oakland's arts and culture community, collaborating with arts organizations and arts and culture events throughout the City. OSA prioritizes enrollment to students coming from low-income families and has successfully graduated nearly 100% of the students from every class since the first graduation ceremony in 2006.

The recommended action would bring a daily, youthful, and arts-oriented activation to the ground floor of the Fox Theater and to the broader downtown/Uptown neighborhoods, consistent with the goals of the Downtown Oakland Specific Plan. It would create street level visibility for the school, thereby increasing awareness of and support for this valuable Oakland cultural institution.

The recommended action would also result in approximately \$32,350 in annual revenue for Fiscal Year 2024-2025 and approximately \$52,527 in annual revenue for Fiscal Year 2025-2026 for an otherwise vacant City-owned space. These revenues would be used to support the operation and upkeep of the historic Fox Theater.

The recommended action would advance the Citywide priority of **housing, economic, and cultural security** by allowing OSA to activate a vacant ground floor retail space in the downtown/Uptown neighborhood with student-led activities, generating economic value for the City and supporting the arts and culture education that OSA offers.

Alternatively, the City could not lease the Ground Floor Premises to OSA. In that case, the City's Real Estate Division would seek to market the space more broadly in an effort to find an alternative tenant. Given current vacancy rates in downtown Oakland, this process is likely to take many months at minimum, with an uncertain outcome.

FISCAL IMPACT

The proposed lease would generate approximately \$32,350 in annual revenue for Fiscal Year 2024-2025 and approximately \$52,527 in annual revenue for Fiscal Year 2025-2026, which 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), Downtown Redevelopment Program (SC13) and used to pay for costs associated with the Fox Theater.

PUBLIC OUTREACH / INTEREST

OSA has discussed its plans for the Ground Floor Premises with its neighbors and the OSA community. In addition, the proposed ordinance will be heard at public meetings of the City Council's Community and Economic Development Committee and the full City Council and will be publicly noticed consistent with standard City Council public noticing provisions.

COORDINATION

This report was 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 recommended action would activate a currently vacant ground floor space in an important economic corridor of downtown Oakland. It would generate monthly rent to help cover the City's costs related to operation and upkeep of the historic Fox Theater.

Environmental: There are no substantial environmental considerations associated with the recommended action.

Race & Equity: The recommended action would create a new ground floor activation 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. Nearly 65 percent of OSA's student body, which would directly benefit from the recommended action, identifies as Black, Indigenous or person of color.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The proposed temporary uses of the Ground Floor Premises as a retail store, art gallery, and radio station are not anticipated to have impacts on the Fox Theater as an historical resource and are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities) and 15183 (projects consistent with General Plan and Zoning).

ACTION REQUESTED OF THE CITY COUNCIL

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For questions regarding this report, please contact Lanette Sukkar, Real Estate Agent, at LSukkar@oaklandca.gov or (510) 238-6363.

Respectfully submitted,

Ashleigh Kanat

Ashleigh Kanat (Sep 24, 2024 12:26 PDT)

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