



Legislation Text

File #: 06-0394, **Version:** 2

Subject: Transfer And Development Of The Fox Theater
From: Community and Economic Development Agency
Recommendation: Adopt The Following Pieces Of Legislation:

1) Conduct A Public Hearing And Upon Conclusion Adopt The Following Pieces Of Legislation:

1) An Agency Resolution Authorizing The Agency Administrator To Enter Into An Amended And Restated Disposition And Development Agreement (DDA) Between The Agency And Oakland Renaissance NMTC, Inc. (ORNMTC), A Non-Profit Entity, And Authorizing The Assignment Of The DDA And Transfer Of The Fox Theater Property To The Fox Oakland Theatre, Inc. (FOT), A Non-Profit Entity, By Sale For \$6,500,000 Or Long Term Lease Based On A Transfer Value Of \$6,500,000, And Development Of The Property As A Mixed Use Entertainment, Office And School Facility, Which DDA Will Include The Following Provisions:

(a) Authorizing Subsequent Transfer From FOT By Sale, Or Long Term Lease Of The Fox Theater Property To A For Profit Development Entity Created By FOT In Order To Take Advantage Of Tax Credits;

(b) Authorizing A Loan Not To Exceed \$32,000,000 To FOT To Partially Fund The Project To Be Comprised Of The Following: i) A Site Acquisition Loan Of \$6,500,000 To Finance The Purchase Of The Property From The Agency, ii) The \$3,000,000 Predevelopment Loan Previously Authorized In The DDA, iii) An Additional Predevelopment Loan Not To Exceed \$1,050,000 To Be Used Prior To Transfer Of The Fox Theater, And iv) An Additional Development Loan Not To Exceed \$21,450,000 To Be Used To Complete Construction Of The Project;

(c) Approving Essential Terms For The Oakland School Of The Arts Lease For Use Of A Portion Of The Fox Commercial Space As A Charter School;

(d) Approving Essential Terms For The Another Planet Entertainment Lease For Operation Of The Fox Theatre;

(e) Authorizing The Developer to Waive Competitive Bidding And Request For Proposal Requirements For All Professional Services, Procurement And Construction Contracts;

(f) Authorizing A Loan Repayment Guarantee From The Agency To A Conventional Lender Not To Exceed \$6,500,000;

(g) Authorizing A Contingent Loan Not To Exceed \$3,530,000 To Be Used For Costs Associated With Obtaining Historic And New Markets Tax Credits Should Operating Revenues Be Insufficient, Which Costs Include Annual Return And Buyout Costs To Tax Credit Investors;

(h) Authorizing The Agency To Accept And Appropriate The Amount Of Any Recovery From Insurance Proceeds From Fire Damage At the Fox Theater, Which Amount Is Expected To Be In Excess Of \$1,500,000;
And

(i) Providing The Agency Or Its Designee With The Option To Purchase The Fox Theater Property After The Tax Credit Period Has Expired

(2) Authorizing The Agency To Reimburse ORNMTC For All Costs Covered By Grants The Agency Receives For The Project Including (A) The California Cultural And Historical Endowment Grant In The Amount Of \$2,887,500; And (B) The State Historic Preservation Office Grant In The Amount Of \$375,000; And

(3) Ratification Of The Prior DDA Between The Agency And ORNMTC Entered Into On August 30, 2005; And