

OAKLAND OVERSIGHT BOARD

RESOLUTION No. 2016- 6

RESOLUTION REGARDING THE FOX THEATER PROJECT AMENDING RESOLUTION NOS. 2006-0073 AND 2009-0057 TO MODIFY THE EXISTING LOAN REPAYMENT GUARANTY FROM THE REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND TO FOX OAKLAND THEATER, INC. FOR CONVENTIONAL LOAN NOT TO EXCEED \$4,600,000

WHEREAS, the Redevelopment Agency of the City of Oakland ("Agency") entered into a Disposition and Development Agreement ("DDA") on 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, renovation of the Fox Theater required numerous funding sources including Agency loans, New Markets and Historic Tax Credits, governmental and private grants and a commercial loan of \$6,500,000; and

WHEREAS, the commercial loan of \$6,500,000 was primarily secured by a guaranteed income stream donation to Oakland School for the Arts from CBS Outdoor's (now Outfront Media) income from a billboard on Port of Oakland property, but also required additional security from the Agency because of the unlikely, but possible interruptions in the income stream should the billboard lease be terminated by the Port or on account of actions of the California Transportation Agency; and

WHEREAS, on July 18, 2006, the Agency approved providing a guaranty of up to \$6,500,000 for the commercial loan; and

WHEREAS, the \$6,500,000 commercial loan has a 10 year term and has been paid down to where on the maturity date of this loan, December 20, 2016, a balloon payment in the approximate amount of \$4,600,000 will be due; and

WHEREAS, the Oakland Redevelopment Successor Agency ("ORSA") was established as the successor agency to the Agency pursuant to Health and Safety Code Sections 34171(j) and 34173; and

WHEREAS, ORSA has listed the loan guaranty as an enforceable obligation on its Recognized Obligation Payment Schedule ("ROPS") and must pay the \$4,600,000 balloon payment if FOT is not successful in refinancing the commercial loan; and

WHEREAS, FOT is finding it difficult to negotiate a new loan to finance the \$4,600,000 balloon payment due to the complicated nature of the income that would be used to secure the debt; and

WHEREAS, FOT is therefore requesting that ORSA include the \$4,600,000 loan guaranty payment in the amended 2016-17B ROPS in order to make the balloon payment due on December 20, 2016 should refinancing be unsuccessful; and

WHEREAS, ORSA also is successor in interest to several unsecured Agency loans to FOT for the Fox Theater project, including \$6,500,000 for the ground lease payment, \$27,000,000 in 2006 for initial development, and additional development loans for 7,450,000 in 2009 and \$2,000,000 in 2010; and

WHEREAS, the refinancing of the debt would trigger repayment of these ORSA loans per the promissory notes and FOT is requesting this requirement to be waived for the proposed refinancing; and

WHEREAS, refinancing of the existing debt may also require ORSA to subordinate its existing loans to FOT related to the Fox Theater Project to the refinanced debt; and

WHEREAS, the ORSA Board is scheduled to hear corresponding legislation on October 4th, 2016; now:

Based on the foregoing recitals and the documentation presented to the Oakland Oversight Board at a public meeting, the Oakland Oversight Board does resolve as follows:

SECTION 1. The Oversight Board hereby finds and determines that ORSA's providing FOT with a new guaranty and subordinating its existing loans to the Fox in order to facilitate refinancing of the commercial loan will:

- (1) reduce the financial liability of the taxing entities by avoiding the need for to pay on the existing loan guaranty on ORSA's Recognized Obligation Payment Schedule ("ROPS"); and
- (2) increase net revenues to the taxing entities by reducing the need for a payment on the Fox Theater loan guaranty, and thereby increase the amount of residual Redevelopment Property Tax Trust Fund ("RPTTF") funds that will flow to the taxing entities; and
- (3) be in the best interest of the taxing entities because it both reduces ORSA liabilities and increases funds that will flow to the taxing entities.

SECTION 2. The Oversight Board hereby approves adding the payment of the existing loan guaranty in the amount of \$4,600,000 to the 2016-17 ROPS for funding from the RPPTF during the 2016-17 B ROPS period.

SECTION 3. The Oversight Board hereby approves ORSA providing a new loan guaranty for the benefit of the conventional lender providing a refinanced loan to Fox Oakland Theater in the amount of \$4,600,000 under the terms and conditions set forth in this resolution and authorizes the inclusion of the new loan guaranty on the amendment to the 2016-17 ROPS.

SECTION 4. The Oversight Board hereby approves the subordination of the FOT Leasehold interest in the Fox Theater property as well as the Agency loans to the Fox Theater, without triggering the repayment term for the loans, to facilitate the refinancing of the commercial loan.

SECTION 5. The Oversight Board approves the action of the ORSA Board authorizing the ORSA Administrator to negotiate, approve, and execute a loan guaranty, subordination agreements and related documents necessary to assist FOT in obtaining a refinanced loan for \$4,600,000.

ADOPTED, OAKLAND, CALIFORNIA September 26, 2016

PASSED BY THE FOLLOWING VOTE:

MOSS
AYES- ~~BYRD~~, CHAIR CARSON, ~~LITTLE~~, MULVEY, ORTIZ, ~~TUCKER~~

NOES-

ABSENT-

ABSTENTATIONS- **TUCKER**

EXCUSED - LITTLE

ATTEST:



SECRETARY OAKLAND
OVERSIGHT BOARD