



News from: Office of the City Administrator

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Oakland Redevelopment Agency Responds to Fox Theater Audit

*Final Project Cost Came in 8% Below Projections;
Fully Restored Historic Theater Spurred Dramatic Revival of
Uptown District*

Oakland, CA – Today the City Administrator’s Office released its final response to the City Auditor’s Fox Theater Renovation Project Performance Audit. The audit was released to the public yesterday by the City Auditor, without including the Administration’s final response.

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Due to the complexity of the project and because it involved significant investment of public dollars, the City Administration requested an outside audit of this project in December 2009 in order to seek a thorough, independent performance management audit.

As demonstrated by the Administration’s request for outside review, the Redevelopment Agency and City of Oakland acknowledge the importance of and commitment to transparency and accountability through independent verification; analysis and feedback on cost-control measures, project delivery and contracting processes; internal controls to assure accountability; and continuous evaluation and improvement of management policies and practices.

“The nationally acclaimed Fox Theater renovation project began 20 years ago. Since its opening it has served as a catalyst to revitalize an area that had fallen into serious blight and disrepair. The Fox Theater has spurred economic development, dynamic growth and new revenues to Oakland—as it was intended when originally conceived in 2001,” said City Administrator Deanna Santana.

“As staff has shared with me, the Redevelopment Agency requested an audit of the project due to its complexity and the significant commitment of public funds to this transformative project. Staff offers a compelling position that disputes many findings in the Audit report, and that deserves public review.”

In those areas of the Fox Audit in which the Administration is in agreement, proactive corrective plans are being developed. However, the Administration is not in full agreement with all the audit findings and recommendations. Specifically:

1. Final Project Cost Came in 8% Below Projections

- The Auditor’s conclusion that project costs “skyrocketed” by 172% is incorrect and misleading. **When the 2001 estimated full renovation cost is adjusted for inflation, the actual cost at completion in 2008 would have been \$98.3 million, 8% below actual costs, not 172% above cost as**

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stated in the Audit.

- The Audit Report inaccurately characterizes the renovation project cost as increasing by 172 percent because it compares the cost of the initial phase of the project (\$33 million) to the cost of the full historic restoration (\$91 million), an “apples-to-oranges” comparison.
- The estimate of \$33 million noted in the Audit was for the initial phase of the project. At the time that Council approved the initial phase, funds were not identified for the entire project. When construction began in 2006, full funding was in place for the complete historic renovation of the project as originally envisioned, for a total project cost of \$91 million.
- After factoring in pre-development costs and the impact of inflation related to the costs of concrete and steel, which had skyrocketed during the national construction boom in the early-mid 2000’s, final project costs were lower than originally estimated in 2003. Adjusted for inflation, the actual cost at completion of the project would have been \$98.3 million; the final cost of the project, at \$91 million, was 8% below projections, not 172% above projections as stated in the Audit.

2. Hiring Goals and Competitive Bidding: The project nearly doubled the City’s Small/Local Business Enterprise participation, and met Council requirements and Federal regulations

- Council agreed that the project should waive competitive procurement requirements in order to maintain strict project schedules and increase Small/Local Business Enterprise (S/LBE) participation levels.
- The Fox Theater project achieved 37% S/LBE participation:
 - nearly double the City’s requirement of 20%
 - much greater than the Citywide S/LBE participation rate for large projects of 29%
 - exceeded the citywide S/LBE participation rate of 36%

3. The Auditor’s report fails to recognize the fact that the Fox Theater project was consistent with the comprehensive vision of Council, which was stated in 2001 and reaffirmed in 2003 and 2004, for the full historic restoration of the Fox Theater (as defined in Resolution No. 2003-82).

4. The Council was informed and engaged on the status and progress of the project. From the initial planning phase through the project completion, the Council was presented with numerous reports and/or approved resolutions on more than 14 occasions.

5. Best practices in administration and oversight were performed on the project. The project was monitored with four different independent layers of oversight on the contracts, which included oversight by: Redevelopment Agency Staff, the project manager, the contractor, the architect, and Bank of America’s construction monitor. The Audit identified two instances of possible overpayment to two contractors that require further follow-up and analysis by the Administration.

6. It appears that the Audit did not acknowledge all of the documentation

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provided with respect to the financial feasibility study conducted. The Administration provided the Auditor with more than 2,400 pages of financial closing documents consisting of loan documents, financial projections, operating agreements, the disposition and development agreement, and formation documents of the various entities of the Project. These documents provided the financial framework for the project and were instrumental in leveraging the Project's Redevelopment Agency funds with private funding, resulting in outside alternative financial sources that totaled over \$45 million.

Background

The Fox Theatre Project was funded by redevelopment funds, private investment, and federal and state grants. The City/General Fund provided no funding for this project.

The nationally acclaimed Fox Theater renovation was a highly successful project that is serving as a centerpiece for revitalization of an area that had fallen into serious blight and disrepair. The Fox Theater has spurred economic development, dynamic growth and new revenues to Oakland—as it was intended when originally conceived in 2001.

As with similar complex and historic renovation projects, the project involved multiple stages and successfully leveraged public dollars with private dollars with differing funding sources and partners.

A detailed, point-by-point analysis of the Auditor's findings and recommendations is available at www.oaklandnet.com

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