

FOX OAKLAND THEATER, INC.

a California nonprofit public benefit corporation controlled by the City of Oakland

BOARD OF DIRECTORS MEETING

Tele-Conference

July 15, 2020

10:00 a.m.

PUBLIC PARTICIPATION

This meeting will be held by tele-conference and recorded. The public may observe and/or participate in this meeting in the following two ways:

- To join the meeting by video conference, please click on this Zoom link at the noticed meeting time.

<https://zoom.us/j/92073512963>

Meeting ID: 920 7351 2963

- To listen to the meeting by phone, please dial the numbers below, depending on your location, at the noticed meeting time:

Dial by your location

+1 669 900 6833 US (San Jose)

+1 408 638 0968 US (San Jose)

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

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+1 646 876 9923 US (New York)

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Meeting ID: 920 7351 2963

Find your local number: <https://zoom.us/u/afIWHsb5E>

If you need special assistance to participate in meetings, please contact the FOT Secretary (hli@oaklandca.gov or 510-238-6239). When possible, please notify staff five (5) days prior to the meeting so we can make reasonable arrangements to ensure accessibility.

ALL PUBLIC COMMENT WILL BE TAKEN AT THE BEGINNING OF THE MEETING UNDER ITEM 2 PUBLIC COMMENT.

There are three ways to submit public comments:

- eComment. Please email hli@oaklandca.gov to send your comment directly to the Board and staff BEFORE the meeting starts. eComment submission closes five (5) minutes before posted meeting time
- To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken at the beginning of the meeting. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted.
- To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing “*9” to speak when Public Comment is taken. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Please unmute yourself by pressing *6

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AGENDA

1. Roll call
(Alexa Jeffress, President; Adam Benson, CFO; Hui-Chang Li, Secretary; Betsy Lake, Director; Kelley Kahn, Director; Brendan Moriarty, Staff; Anthony Reese, Staff)
2. Public Comment *(1 minute each)*
3. Waiver of notice and consent – **Action Item**
4. Approval of Minutes for December 2, 2019 – **Action Item**
5. Board appointments – **Action Item**
 - a. Confirm Brendan Moriarty and Anthony Reese
6. FOT Bylaw Amendment – **Action Item**
 - a. To clarify that FOT is a City-controlled entity subject to City policies and programs and further consistency with the Brown Act (Gov. Code 54950 et. seq.), the California Public Records Act (Gov. Code 6250-6270), and Chapter 2.20 of the Oakland Municipal Code
7. FOT Financial Status – *Update*
 - a. FY 18-19 Audit and taxes completed
 - b. Fiscal Impact of COVID-19
8. Lease Updates
 - a. APE Lease
 - i. APE Request for Rent Reduction – **Action Item**
 - ii. Default Notice. Staff worked with Agency Counsel to ORSA to prepare a letter to inform APE that they are in default of their

lease obligation to provide OSA with use of the Fox Theater for up to 10 events per year free of charge. Sending this letter was placed on hold due to COVID-19

- iii. FOOF Loan. Staff is working with Agency Counsel to ORSA on calling a default action on the \$1.3 million Friends of Oakland Fox (FOOF) loan owed to ORSA, for which APE is guarantor.
- iv. Den Activation. In response to FOT Board direction, APE sent email in December 2019 saying they have incentivized their Sales VP to push for Den rentals/events, and she has brought in 3 since September (Cushman and Wakefield, TMC Party, Cookie's Grand Opening Party).

b. Emporium Lease

- i. Request for Rent Deferral– **Action Item**
- ii. Rudy's Back Rent Loan Payment – last payment March 1, 2020. BMZ Enterprises (aka Rudy's or RCFC) pays \$2,902.96 monthly in back rent pursuant to termination agreement – \$98,696.89 in total, amortized over 36 months at 3.75% annual interest, starting 8/1/18 and extending to 7/1/21.
 - 1. Authorize staff to negotiate and execute a Promissory Note or similar document with BMZ Enterprises to require payment of outstanding rent starting no later than December 31, 2020, subject to an interest to be determined by staff - **Action Item**

- c. OSA Lease Amendment to extend existing rent of \$940,500 per year through the end of the billboard license agreement in April 2026. OSA had its Charter renewed through June 30, 2025 but did not extend the Billboard Pledge past 2026.

- i. Billboard Revenue (Pre-paid rent balance)

9. Fox Theater Asset Transfer from ORSA to City/FOT – *Update*

- a. California Department of Finance ("DOF") has granted "pre-approval" for staff's proposed asset transfer and lease-leaseback transaction for the Fox Theater that results in ORSA conveying the land to the City of Oakland and terminating \$47 million in associated Redevelopment Agency loans in exchange for a one-time payment of \$4.4 million and a

pledge of future payments of \$247,500 per year for 16 years. Staff is scheduling for the September 15, 2020 City Council meeting and then Oversight Board ASAP after that.

- b. Authorize execution of the following – **Action Items**
 - i. Second Amendment to the Amended and Restated Development and Disposition Agreement (“DDA”) to allow the DDA between ORSA and FOT to terminate, effectively concurrently, on
 - 1. Assignment and amendment of existing Ground Lease from ORSA to the City as Landlord and FOT as Tenant for a term of 16 years and in the amount of \$1 per year subject to approval by ORSA and the City Council;
 - 2. Termination of existing Redevelopment Agency loan documents in the amount of \$47 million owed by FOT to ORSA;
 - 3. Execution of the Pledge Agreement by FOT to pay ORSA \$3.96 million or \$247,500 annually for 16 years; subject to approval by ORSA and the Oversight Board (“OSB”); and
 - 4. Transfer of \$4.4 million from FOT operating and replacement reserve to ORSA.
 - ii. Assignment of FOT Subleases with Another Planet Entertainment LLC (“APE”)-GASS Entertainment LLC, Oakland School of the Arts (“OSA”), and Emporium to the City subject to approval by the City Council
 - iii. Assignment of FOT third party contract with CCIG for property management services to the City subject to approval by the City Council
 - iv. Approval of a Leaseback Agreement for the Fox Theater Improvements by and between FOT as building owner and Lessor, and the City as Lessee for a term of 16 years and in the amount of \$247,500 per year with an option to purchase upon satisfaction of the Pledge Agreement between FOT and ORSA subject to approval by the City Council

10. Property Management

- a. Authorize California Capital and Investment Group (“CCIG”) Professional Services Agreement (“PSA”) Amendment No. 12 for property management and accounting services for an additional 5 months until December 31, 2020 – **Action Item**
- b. RFP for Property Management Services to replace CCIG - *Update*
- c. Capital Improvement Needs – Update on Waterproofing and Roof Repair

11. Next Meeting: September 14, 2020 @ 3pm

12. Other

13. Adjournment