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Discussion of Loan Agreements for the BAL Theatre

SUMMARY AND BACKGROUND

The Historic BAL Theatre, located at 14808 East 14th Street, is a unique and valuable cultural asset for the City of San Leandro. According to the theatre owner, The BAL “was built in 1945 as a modern Art Deco, 800 seat, community based, movie palace and performing arts theatre. San Leandro Curtain Call Performing Arts operates and maintains the Historic BAL Theatre and hosts, promotes, and produces a multitude of world class, culturally diverse, programming, entertainment, education, motion pictures and other experience based arts.”

In the past year, updates on the BAL to the City Council include a presentation at the July 6, 2016 regular City Council meeting, a discussion at the October 19, 2016 Facilities and Transportation Committee meeting, a discussion at the Council’s January 28, 2017 annual Planning Session, and further discussion at the May 2, 2017 Finance Committee meeting. At each of these presentations, the Council indicated a desire to provide financial assistance to the BAL in order to support ongoing renovation and modernization of the facility as well as continued operations that provide a public benefit. The Finance Committee referred this item to staff in May 2017 after providing feedback on drafting two loan agreements as a financial assistance package.

Based on that direction, staff has engaged in extensive discussions with representatives of the BAL and Curtain Call Performing Arts. Curtain Call is a nonprofit organization that holds the lease for the facility and serves as its operator. The BAL was represented in these discussions by Dan Dillman, a member of the Curtain Call Board of Directors whose family owns the building, and Chris Crow, another member of the Curtain Call Board of Directors. Staff requests feedback from the Finance Committee on two loan agreements presented below that have been approved by the City Attorney’s Office and Finance Department. Based on approval, staff is prepared to bring the two loans to the full City Council for approval as early as October 16, 2017.

Analysis

Needs - Although the current ownership has been successful in revitalizing the BAL and significantly expanding programming in recent years, the facility has significant deferred maintenance. The Dillman family, which owns the building, also faces an upcoming balloon payment on the building's mortgage of approximately \$400,000. Lastly, the BAL's representative have indicated that additional operating funds would enable them to secure more ambitious programming, ultimately increasing operating revenues and enhancing the theatre's long-term viability.

Financial Status - Staff performed its due diligence and requested a Title Report from First American Title Insurance Company for the property, 14808 East 14th Street. The Title Report (Attachment 1) states the following:

- Lien of defaulted taxes for fiscal year 2010, are currently due for an amount of \$42,439.51 (currently according to the Alameda County Property Assessment Information the amount has been reduced to \$13,359.96).
- A certified copy of a judgment or an abstract thereof, recorded July 6, 2010 as Instrument No. 2010186885 by American Express Centurion Bank for an amount of \$10,969.49
- A certified copy of a judgment or an abstract thereof, recorded February 21, 2012 by AT&T Advertising for an amount of \$30,463.40

The total amount of debt due is currently \$54,793.85. Because those obligations predate any potential loans from the City, they would need to be repaid first if any future act of default were to result in a forced sale of the property. As discussed below the market value of the BAL in its current condition exceed the total amount of any existing and proposed City-issued debt on the property.

To understand the current market value of the BAL, staff requested an Appraisal Report from The Schmidt-Prescott Group, Inc. Based on that report, the property is valued at \$1,090,000. Staff learned from the appraisal report (Attachment 2) that the theatre use is the highest and best use for the property, in its current state. Most existing theatres operate as movie or performance theatres. There are few economically feasible alternative uses. Absent any parking, few retail users would be interested in the property, and they would likely have to obtain a conditional use permit to support a retail use without parking. Several theatres that have been converted to other retail uses in recent years were vacant and non-operating prior to selling. The appraiser concluded the highest and best use as improved is to continue the current theatre use.

The appraisal indicates that the property has value in excess of the amount of the proposed City loans. Although the intent of any financial assistance from the City is obviously to enable to BAL to thrive under its current ownership, the appraisal suggests that, if an event of default were to occur in the future, there is sufficient value in the property to ensure that the City investment could be repaid through a sale of the property. With that said, the prospective pool of buyers for a historic theater is likely small, so the appraised value does come with significant uncertainty.

Staff Proposal - Based on the ongoing discussions, staff understands the upcoming balloon payment to be the most urgent need facing the BAL. Refinancing this debt to a secure, long-term structure will eliminate an impending financial challenge and enable Curtain Call to focus on continuing ongoing operations. Staff also recognizes that facility improvements can improve the

viability of the theatre and begin to address some maintenance needs. Consequently, staff proposed the following two-part package of financial assistance for the BAL:

1. Traditional loan to the Dillman family of \$400,000 at 3% interest for a term of 30 years

(Attachment 3). This will enable the BAL owners to address the upcoming balloon payment and secure long-term financing at a low interest rate. Although City staff would normally deem it preferable to make such a community assistance loan to a non-profit entity, in this case the loan would be to the family that owns the building and holds the debt. Semi-annual debt service payments would be \$10,157.37, with the option to pay monthly, and total interest payments over the life of the loan would be \$209,442.26. The City Attorney strongly recommends that the loan be secured by a Deed of Trust and this is reflected in the draft agreement.

2. Forgivable loan to Curtain Call Performing Arts for \$100,000, for a term of three years

(Attachment 4). The City commonly uses forgivable loans to incentivize physical improvements to commercial buildings. For example, the City provided a \$50,000 loan to the BAL for exterior façade improvements that was ultimately forgiven. For the proposed loan, staff recommends a term of three years, and the full loan amount would be forgiven if the BAL complied with all terms. According to the proposed Agreement, the forgivable loan could be used for the following agreement:

- Re-treat the Curtains, Movie Screen cleaning or brand new screen installed, new projector (\$90,000)
- New carpets (\$70,000)
- Additional Surveillance Cameras (\$15,000)
- Outside Terrazzo Repair (\$10,000)
- Reupholstered Seats (\$100,000)

The estimated costs of the eligible improvements exceed the total amount of the forgivable loan in order to give Curtain Call flexibility to determine which improvements will yield the greatest benefit for the theater. Under the agreement, Curtain Cal is required to obtain all applicable permits and approvals for any improvements undertaken.

The forgivable loan agreement also includes a Joint Use clause requiring the operators to make the BAL Theatre available for City events at least four times per year as long as the agreement is in effect. This clause is part of the forgivable loan because that loan is with the theater operator rather than the property owner. With that said, the forgivable loan has a significantly shorter term (three years vs. thirty). Staff seeks direction from the Finance Committee on the preferred approach to this clause.

Insurance Requirements - Both agreements include detailed insurance requirements that protect the City from risk arising from this partnership. The BAL and City staff continue to discuss certain aspects of those requirements and minor modifications may be made prior to City Council action. Staff will ensure that all insurance requirements are reviewed and approved by the City's Risk Manager and our self-insurance risk pool.

Budget Authority - There is currently a placeholder in the 2017-19 biennial budget for a \$100,000

expenditure to fund the forgivable loan. The traditional loan does not need to be budgeted as an expenditure because it would eventually be paid back.

Next Steps

Staff requests Finance Committee approval of the loan agreements outlined above.

After execution of the loan agreements, City staff and Curtain Call have agreed to work on a Memorandum of Understanding (MOU) and an Economic Impact Analysis. The MOU will outline terms of an extended partnership and provide a basis for the City and the BAL to work together to secure grant funding for additional improvements in the future. The Economic Impact Analysis will provide a quantitative assessment of the BAL's contributions to the San Leandro economy and the potential return on investment from future investments.

ATTACHMENTS

- *Attachment 1: BAL Theatre Title Report*
- *Attachment 2: BAL Theatre Appraisal Report*
- *Attachment 3: Loan Agreement \$400,000*
- *Attachment 4: Forgivable Loan Agreement \$100,000*

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