



**REQUEST FOR PROPOSALS
(RFP)
For
PROPERTY MANAGEMENT SERVICES
for the
FOX OAKLAND THEATER
(a property owned by the Fox Oakland Theatre, Inc.,
a California non-profit public benefit corporation)**

*In cooperation with the
Economic & Workforce Development Department
of the City of Oakland*

- ✓ **Proposal Due Date:** April 10, 2020 – 2:00 p.m. (PST)
- ✓ **Voluntary Pre-Proposal Meeting/Walkthrough:** March 25, 2020 at 10:00 a.m. (PST)
- ✓ **Location:** The Den at the Fox Theater, corner of 19th Street and Telegraph Avenue, Oakland, CA.

TABLE OF CONTENTS

I. INTRODUCTION.....1

II. SCOPE OF SERVICES.....3

III. PROPOSAL.....6

A. General information6

B. Submittal Requirements15

C. Required Proposal Elements and Format15

D. Rejection of Proposal Elements17

E. Evaluation of Proposals.....18

F. Interviews of Short-listed Firms19

G. Contract Negotiations and Award19

IV. ATTACHMENTS

A. Sample Management Agreement.....20

B. Stand-Alone Schedules

1) Required with Proposal:

 • **Schedule E - Project Consultant Team42**

 • **Schedule O - Campaign Contribution Limits.....43**

 • **Schedule W – Border Wall Prohibition.....44**

2) Required before full contract execution

 • **Schedule E-2 Oakland Workforce Verification44**

 • **Schedule Q Insurance Requirements47**

C. City Schedules and Policies..... 52

The Combined Contract Schedules will be collected from the successful proposer before a final decision is made and up to full contract execution. It may be viewed at: <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> or at 250 Frank H. Ogawa Plaza Suite 3341, Oakland, CA Contracts and Compliance Division. Also, request a copy by email from isupplier@oaklandca.gov

I. INTRODUCTION

Fox Oakland Theater, Inc. (FOT), a California non-profit public benefit corporation, in cooperation with the Economic & Workforce Development Department of the City of Oakland (“City”), is seeking a well-qualified business entity (“Property Manager” or “Contractor”) to provide property management and accounting services for the Fox Oakland Theater building (“the Fox”) for a fixed monthly fee, plus reimbursements for certain out-of-pocket costs.

Contract Term: Five (5) years; which may be extended by FOT for two additional terms of five (5) years each.

Pre-proposal Meeting Date and Time (voluntary, but highly recommended): March 25, 2020 at 10:00 AM at the Den at the Fox Theater. Enter at the corner of 19th Street and Telegraph Avenue, Oakland, CA 94612

Deadline for Questions: 2:00 PM, March 30, 2020 by email to Eric Simundza, esimundza@oaklandca.gov

Proposal Submittal Deadline Date and Time: April 10, 2020 at 2:00 PM

Deliver To: Fox Oakland Theater, Inc., c/o Contracts and Compliance Division, Office of the City Administrator, 250 Frank Ogawa Plaza 3rd Floor, Suite 3341, Oakland, Ca 94612

Proposals Must Be Received and Time Stamped by Contracts and Compliance Staff No Later Than April 10, 2020 at 2:00 P.M.

Proposals not received at the above location by the Proposal Submittal Deadline are late and will be returned to proposers unopened.

TENTATIVE SCHEDULE

FOT anticipates the **tentative schedule** of events to be as follows:

- Distribution of RFP March 13
- Pre-proposal Meeting (walkthrough) March 25
- Deadline for Questions March 30
- Submission Deadline April 10
- Evaluation of Proposals April 2020
- Contract Negotiations April 2020
- Contract Documentation Distribution May 2020
- Contract Award May 2020

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

The Property Manager shall be required to comply with all applicable City programs and policies outlined in Attachment C. Details will be discussed at the pre-proposal meeting. Discussions will include, but may not be limited to:

- ◆ Equal Benefits for Registered Domestic Partners
- ◆ Campaign Contribution
- ◆ Post-project Contractor Evaluation
- ◆ Prompt Payment
- ◆ Arizona Boycott
- ◆ Dispute Disclosure
- ◆ Living Wage
- ◆ Minimum Wage
- ◆ Border Wall Prohibition

Property Managers who wish to participate in the RFP process are required to register in iSupplier to receive addenda, updates, announcements and notifications of contracting opportunities. We recommend updating your firm’s primary email address regularly, and periodically confirming that the “Products and Services” section fully represents the scope of products and services provided. If you have any questions, please email isupplier@oaklandca.gov.

For further information and detailed iSupplier registration instructions, please visit the following link <https://www.oaklandca.gov/services/register-with-isupplier>.

Free copies of the RFP documents and Addenda are available at <https://www.oaklandca.gov/FoxRFP>. However, registration on iSupplier is required to receive updates. Hard copies will NOT be available for purchase from FOT.

1. iSupplier Registration/Login:

<https://www.oaklandca.gov/services/register-with-isupplier> New registrants can email isupplier@oaklandca.gov for registration instructions. Allow three (3) working days for approval to access bid documents through iSupplier.

iSupplier Plan Holders List:

<https://www.oaklandca.gov/services/active-closed-oppourtunities>

Contact Dasco Munoz for iSupplier registration support at (510) 238-7643 or email at dmunoz@oaklandca.gov.

Contact Information: Project Manager: Eric Simundza at esimundza@oaklandca.gov or (510) 238-6249

Property Description

The Fox Theater is a historic three-story building, located at 1807 Telegraph Avenue in the Uptown District of Downtown Oakland (see attached map and floors plans in Attachment D). The Fox is a fully-occupied mixed-use project, home to a 2,800-seat concert hall operated by Another Planet Entertainment (APE), a bar and event space, known as the Den, operated by APE, the Oakland School for the Arts (OSA), a public charter school in the Oakland Unified School District, and the Arcade Bar Venue “Emporium,” operated by Emporium LLC (collectively, the “Tenants”). The facility

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

has excellent access to public transportation and the I-980 freeway. The Fox is owned by Fox Oakland Theater, Inc. (FOT), a California non-profit public benefit corporation. The Fox is on the National Register of Historic Places.

Table 1. Fox Theater Tenants

	Concert Hall (APE)	Den (APE)	OSA	Emporium
Use	Performing arts venue	Bar and event space	School	Arcade Bar Venue
Rentable Area (sq.ft.)	69,450	1,300	62,910	4,503
Lease Term/Options Through	2034	2034	2021	2035

II. SCOPE OF SERVICES

FOT seeks real property asset and property management services to manage the historic Fox Theater property in downtown Oakland. The ideal respondent will have at least ten years' experience in building maintenance, tenant relations, and financial reporting. Prior experience providing property management and accounting services for multi-use historic buildings and/or theaters is preferred.

Overview of General Duties and Responsibilities

1. Provide asset and property management services for the Fox.
2. Conduct all regular maintenance and capital improvements for the Fox.
3. Serve as FOT's representative to tenants.
4. Assist with and monitor tenant improvements to the property.
5. Collect all rents, Common Area Maintenance (CAM) charges, and other fees from tenants.
6. Pay operating expenses, such as utilities, taxes, insurance, maintenance and other bills.
7. Provide accounting and bookkeeping services, and coordinate third-party audit and tax preparation for FOT.
8. Submit periodic reports to FOT.
9. Comply with various City policies regarding employment and professional service contracting.

Specific Responsibilities

1. Asset and Property Management

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- a. The Manager shall make ordinary repairs and alterations as the Manager may deem necessary and reasonable to preserve the economic life and upkeep of the property up to an agreed upon amount.
- b. The Manager shall prepare a 20-Year Capital Improvement Plan and budget for the Fox.
- c. The Manager shall direct, supervise and complete those major capital improvements reasonably required and approved by FOT to protect and preserve the Fox, in accordance with the 20-Year Capital Improvement Plan and budget (see Reporting). The Property Manager shall draft the scope of work, solicit bids for proposed work from contractors and present such bids with a recommendation for contractor selection to FOT for final approval.
- d. Provide management oversight for procurement and installation of furniture, fixtures, and equipment (FF&E) and non-FF&E tenant improvements.
- e. With FOT prior consent, the Property Manager shall enter into and manage contracts for those building operations and maintenance services the Property Manager shall deem necessary and advisable.
- f. The Property Manager shall ensure compliance with all local, state and federal codes and regulations pertaining to, and shall attend to all legal responsibilities pertaining to, all work pursuant to this Scope of Services.
- g. The Property Manager shall ensure that all required licensing, bonding and insurance requirements are carried by the Property Manager, all employees and subcontractors, and all other persons engaged in all work pursuant to this Scope of Services.
- h. Administer and enforce the terms of rental agreements.
- i. Provide a set of Standard Property Management Operating Procedures and a Property and Asset Management Plan.
- j. Provide an asset “Take Over” plan and checklist at onset of project for the transition of property management and accounting services from the prior property manager.

2. Tenant Coordination

- a. Work with all tenants as required, including lease interpretation, facility maintenance and repair, billing questions, and other matters that may arise, and communicate any such issues to FOT, as necessary.
- b. Monitor all tenant improvements to ensure compliance with lease provisions and authorized scope of work.
- c. Coordinate timing of repair, maintenance, and tenant improvement activities to minimize disruption to tenants and building operations.
- d. In coordination with FOT, negotiate future lease renewals, procure new tenants, if necessary, and negotiate leases with new tenants.
- e. In the event of a vacancy, provide FOT with a marketing strategy to tenant the space.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- f. Effectively and efficiently resolve tenant issues.
3. Fiscal Management
 - a. In accordance with Generally Accepted Accounting Principles (GAAP) and industry best practices, provide professional bookkeeping necessary to maintain the records (electronic and hard copy) specified in this RFP and retain those records for seven (7) years. FOT shall have the right to audit the Property Manager’s books with respect to the Fox with not less than forty-eight (48) hours’ notice during reasonable business hours.
 - b. Provide financials and all data to accounting firm contracted by FOT to perform annual audits of FOT’s finances.
 - c. In accordance with GAAP and industry best practices, provide general ledger detailed account reconciliation for each vendor and tenant.
 - d. Calculate CAM charges and bill pro rata shares to tenants.
 - e. Calculate tax and insurance charges and bill pro rata shares to tenants.
 4. Emergency Response
 - a. Provide 24 hour - 7 day per week response to emergency calls. These costs shall be reimbursable by FOT on a per incident basis. The Property Manager shall provide a list of additional on-call services and rates for such services.
 5. Reporting

The Property Manager shall provide the following reports on a continuing basis:

 - a. Annual Capital Improvement Repair Report and budget (due within 90 days of fiscal year’s end) – document capital improvements and major repairs made within past fiscal year, including written descriptions and color photographs.
 - b. 20-Year Capital Improvement Plan and budget (due 60 days before start of fiscal year) - provide a 20-year schedule for projected capital improvements or other major repairs that are necessary or advisable to enhance the useful life of the Fox structures or enhance the economic returns of the Fox. The Property Manager will propose capital improvements for approval from FOT, and the Property Manager will manage such capital improvement contracts as approved by FOT.
 - c. Annual Income and Expense budget (due 60 days before start of fiscal year).
 - d. 10-year Income and Expense forecast pro forma budget.
 - e. In accordance with GAAP and industry best practices provide quarterly report of revenues and expenditures (due within 60 days of quarter's end, along with accounting of improvements made to property) - report of actual expenses and revenues for the prior quarter.

- f. Complete annual Possessory Interest Reports.

6. Meetings

- a. Attend FOT board or other City staff meetings as requested.
- b. Attend meetings of the Oakland City Council or its Committees as requested.
- c. Attend Lake Merritt-Uptown District Association meetings, as requested.

Time spent attending meetings at FOT’s request in excess of four (4) hours per quarter shall be reimbursable at rate proposed by Manager.

III. THE PROPOSAL

A. GENERAL INFORMATION

1. The Property Manager selected for this service shall obtain and/or provide proof of having a current City of Oakland Business Tax Certificate.
2. The FOT Board of Directors reserves the right to reject any and all bids.
3. Local and Small Local Business Enterprise Program (L/SLBE)
 - a) Requirement – The Property Management Agreement is exempt from L/SLBE requirements; however, future Subcontracts entered into by Manager shall be subject to the City’s current Local and Small Local Business Enterprise Program administered by the Compliance Office, a copy of which is attached hereto as Exhibit D (the “L/SLBE Program”).
 - b) Outreach Obligations – In the recruitment of future subcontractors, the City requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland’s business community. In the recruitment, hiring, and retention of employees or subcontractors, all contractors shall ensure the absence of unlawful discrimination based on age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
 - c) Oakland-Resident Employment – The recruitment of future subcontractors by Manager shall be subject to the City’s Local

Employment Program. Unless exempted or otherwise agreed to by City, Subcontracts entered into by Manager for the purchase of construction services shall cause the hiring of Oakland residents on public works projects.

4. The City's Living Wage Ordinance

This Agreement is subject to the Oakland Living Wage Ordinance of Chapter 2.28 of the Oakland Municipal Code (the "Living Wage Ordinance") and its implementing regulations. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to the Manager's employees. Unless specific exemptions apply or a waiver is granted, the Manager must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial **hourly wage rate of \$14.35 with health benefits or \$16.47 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. Effective July 1st of each year, Contract shall pay adjusted wage rates.
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least **\$2.12 per hour**. Manager shall provide proof that health benefits are in effect for those employees no later than thirty (30) days after execution of the contract.
- c. Compensated days off – Said employees shall be entitled to twelve (12) compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required twelve (12) compensated days off. Ten (10) uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- d. Federal Earned Income Credit (EIC) - To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. For more information, web sites include but are not limited to: (1) <https://www.irs.gov/> and <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit>
- e. Notices – Manager shall provide to all employees and to Contracts and Compliance, written notice of its obligation to eligible employees under the City’s Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Languages – Manager shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Manager shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Manager shall provide a copy of said list to the Office of the City Administrator, Contracts and Compliance Unit, upon request. Manager shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Subcontracts – Manager shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Manager shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to Contracts and Compliance.

5. Minimum Wage Ordinance

Oakland employers are subject to Oakland’s Minimum Wage Law, whereby Oakland employees must be paid the current Minimum Wage rate. Employers must notify employees of the annually adjusted rates by each December 15th and prominently display notices at the job site. The law requires paid sick leave for employees and payment of service charges collected for their services.

For further information, please go to the following website:

<https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges>

6. Equal Benefits Ordinance

Manager agrees to comply with the Equal Benefits Ordinance, Municipal Code, Chapter 2.32 of the Oakland Municipal Code and its implementing

regulations, by providing employee benefits to its employees with domestic partners equivalent to those provided to its employees with spouses. This ordinance covers all benefits that an employer offers its employees and their spouses, which include health benefits, bereavement leave, family leave, retirement benefits, travel and other benefits. If Manager does not provide employees with spousal benefits, it is not required to change its benefits policies. Upon reasonable request by the City’s Contracts and Compliance Division (“Compliance Office”), Manager shall execute an “Equal Benefits – Declaration of Non-Discrimination” consistent with the City’s Schedule N-1. For more information, see

http://library.municode.com/HTML/16308/level2/TIT2ADPE_CH2.32EQBEOR.html#TOPTITLE

7. Prompt Payment Ordinance

The following provisions will be included in the Management Agreement pursuant to Section 2.06.070 of the Oakland Municipal Code:

This Agreement is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06. The Ordinance requires that, unless specific exemptions apply, Manager and its Subcontractors shall pay undisputed invoices of their respective subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless Manager or its Subcontractors notify the City of Oakland Prompt Payment Liaison in writing within five (5) business days that there is a bona fide dispute between Manager or its Subcontractor and the claimant, in which case Manager or its Subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed late payments are subject to investigation by the City of Oakland Prompt Payment Liaison, Division of Contracts and Compliance. Upon the filing of a complaint, Manager or its Subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits directly to claimants for valid claims.

Manager and its Subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Manager and its Subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

For the purpose of posting on the City's website, Manager and its Subcontractors are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and Manager is required to file an affidavit, under penalty of perjury, that it has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

Prompt Payment invoice and claim forms are available at the following City of Oakland website: <https://www.oaklandca.gov/resources/prompt-payment-forms> or at Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Jasmine Chan, City of Oakland Prompt Payment Liaison, 510-238-7524 or email jchan@oaklandca.gov.

8. Non-Discrimination/Equal Employment Practices

Manager shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Manager agrees as follows:

- a. Manager and Manager's sub-contractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Manager and Manager's Sub-contractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Manager shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act, attached hereto and incorporated herein.

d. If applicable, Manager will send to each labor union or representative of workers with whom Manager has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Manager's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

9. Arizona and Arizona-Based Businesses

Consistent with the City's Schedule B-1 (Declaration of Compliance with the Arizona Resolution 82727), Manager must represent that it is not headquartered in Arizona.

10. Border Wall Ordinance

Consistent with City's Schedule W (Border Wall Prohibition), Manager must represent that it does not provide any services, goods, equipment or information technology or cloud-based technology or services, to construction of a wall along any part of the United States – Mexico border.

11. Pending Dispute Disclosure Policy:

Consistent with City's Schedule K (Pending Dispute Disclosure), Manager hereby represents that it is not involved in a pending dispute or claim against FOT, the Oakland Redevelopment Successor Agency ("the Agency" or "ORSA"), the City, or its agencies.

12. City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits Contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations. Consistent with the City's Schedule O (Acknowledgment of Campaign Contribution Limits), Manager hereby represents as follows:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland and the Oakland Redevelopment Agency during specified time periods. Violators are subject to civil and criminal penalties.

Manager has read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certifies that Manager has not knowingly, nor will it, make contributions during the period specified in the Act.

Manager understands that the contribution restrictions also apply to entities/persons affiliated with the Manager as indicated in the Oakland Municipal Code Chapter 3.12.080.

If there are any changes to the information herein during the contribution-restricted time period, Manager will notify the City of Oakland.

13. Nuclear Free Zone Disclosure

Manager represents, pursuant to the combined form Nuclear Free Zone Disclosure Form that Manager is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Contractor shall complete the combined form, attached hereto.

14. Sample Management Agreement

The selected contractor will be required to enter into a contract that contains similar terms and conditions as in the sample Management Agreement, which is subject to change.

15. Insurance Requirements

The Manager will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of the Manager's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute grounds for rescission of the contract award.

The Manager shall name FOT, the Tenants, the Agency, the City of Oakland, its Council members, directors, officers, agents, employees and volunteers as additional insured in its Comprehensive Commercial General Liability and Automobile Liability policies. If Contractor submits the ACORD Insurance Certificate, the additional insured endorsement must be set forth on a CG20 10 11 85 form and/or CA 20 48 - Designated Insured Form (for business auto insurance).

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

Please Note: A statement of additional insured endorsement on the ACORD insurance certificate is insufficient and will be rejected as proof of the additional insured requirement.

Unless a written waiver is obtained from the City’s Risk Manager, Manager must provide the insurance as found at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (Schedule Q). A copy of the requirements is attached and incorporated herein by reference. Liability insurance shall be provided in accordance with the requirements specified.

When providing the insurance, include the Project Name and Project Number on the ACORD form in the section marked Description of Operations/Locations.

When providing the insurance, the “Certificate Holder” should be listed as: Fox Oakland Theater, Inc. c/o City of Oakland, Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612.

16. Performance Evaluation

On a regular basis, FOT will evaluate the Manager’s performance.

17. Violation Of Federal, State, City Laws, Programs Or Policies

FOT may, in their sole discretion, consider violations of any government programs and policies described or referenced in this Request for Proposal, a material breach and may take enforcement action provided under the law, programs or policies, and/or terminate the contract, debar contractors from further contracts with FOT, City and Agency and/or take any other action or invoke any other remedy available under law or equity.

18. Manager’s Qualifications

Manager represents that Manager has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of FOT. Manager’s services will be performed in accordance with the generally accepted principles and practices applicable to Manager’s trade or profession. The Manager warrants that the Manager, and the Manager’s employees and sub-contractors are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Manager’s performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Manager will promptly advise FOT of any change in the applicable laws, regulations, or other conditions that may affect property management and accounting services provided at the Fox. This means Manager is able to fulfill the requirements of this

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Manager has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this agreement, Manager shall complete the Independent Contractor Questionnaire, Part A, attached hereto.

19. All responses to the RFP become the property of FOT.
20. The RFP does not commit FOT to award a contract or to pay any cost incurred in the preparation of the proposal.
21. FOT reserves the sole right to evaluate each proposal and to accept or reject any or all proposals received as a result of the RFP process.
22. FOT reserves the unqualified right to modify, suspend, or terminate at its sole discretion any and all aspects of the RFP and/or RFP process, to obtain further information from any and all Contractor teams and to waive any defects as to form or content of the RFP or any responses by any contractor teams
23. FOT may require a service provider to participate in negotiations and submit technical information or other revisions to the service provider's qualifications as may result from negotiations.
24. All documents and information submitted to FOT in response to an RFP are public records pursuant to California Government Code, Sections 6254, et seq. and City of Oakland Sunshine Ordinance, Oakland Municipal Code Chapter 2.20. FOT shall disclose such documents and information upon request by any member of the public, absent a mandatory duty to withhold or a discretionary exemption that the FOT may choose to exercise. Neither the City nor FOT shall in any way be liable or responsible for any disclosures of documents or information made pursuant to a request under the Public Records Act or the City of Oakland Sunshine Ordinance.
25. The Fair Political Practices Act and/or California Government Code Section 1090, among other statutes and regulations may prohibit the City from contracting with a service provider if the service provider or an employee, officer or director of the service providers' firm, or any immediate family of the preceding, or any sub-contractor or contractor of the service provider, is serving as a public official, elected official, employee, board or commission member of the City who will award or influence the awarding of the contract or otherwise participate in the making of the contract. The making of a contract includes actions that are preliminary or preparatory to the selection of a contractor such as, but not limited to, involvement in the

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

reasoning, planning and/or drafting of solicitations for bids and RFPs, feasibility studies, master plans or preliminary discussions or negotiations.

B. SUBMITTAL REQUIREMENTS

Submit six (6) copies of proposal.

The proposals are due at the following address:

Fox Oakland Theater, Inc,
c/o Contracts and Compliance Division
Office of the City Administrator
250 Frank H. Ogawa Plaza, Suite 3341
Oakland, CA 94612

Proposals must be time stamped by no later than **2:00 P.M. April 10, 2020.**

Proposals not received at the above location by the Proposal Submittal Deadline are late and will be returned to proposers unopened.

All proposals submitted via US Mail or common carrier must be delivered in a sealed package with the project name, submittal date, time and location of the proposals on the outside of the package or the documents.

C. REQUIRED PROPOSAL ELEMENTS AND FORMAT

1. Transmittal Letter

- a. Please address the transmittal letter to: Fox Theater Oakland, Inc. c/o Eric Simundza, 250 Frank Ogawa Plaza, Suite 3341, Oakland, California, 94612.
- b. Signed by an officer of the consultant. In case of joint venture or other joint-prime relationship, an officer of each venture partner shall sign.

2. Project Personnel

- a. Provide a detailed resume of the proposed principal-in-charge, lead person and the project manager(s). The Project Manager(s) shall be a full-time employee of the prime(s). Clearly identify experience.

4. Relevant Experience

- a. Describe general experience providing asset and property management services.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- b. Describe experience managing historic buildings, mixed-use buildings, schools, restaurants, cultural spaces, and/or theaters.
- c. Provide a list representative current or past projects managed, location, dates managed, and a summary of work for each. Indicate whether any of these are/were historic buildings.
- d. Describe experience managing multi-tenant buildings and addressing issues that arise.
- e. Describe experience with building maintenance and capital improvements, including experience planning, scheduling, and budgeting for capital improvements.
- f. Describe infrastructure in place or proposed that will enable the Manager to respond to building emergencies on a 24-hour/7-day week basis.
- g. Describe experience with financial reporting and bookkeeping related to management services, including any accounting, and/or property management software programs used.
- h. Describe your experience producing monthly or quarterly reports similar to that which FOT would receive.
- i. Provide any other information and/or unique qualities that make the Property Manager well suited to perform the work.

5. Project Approach and Organization

- a. Present your concept of the approach and organization required for this project. Indicate your understanding of the critical project elements.
- b. Describe how you intend to interface with FOT staff, City staff, property tenants, consultants, and other stakeholders.

6. References

- a. Company References: Three property owner references for properties previously or currently managed. Provide owner name and contact information. Also provide the name and address for each location managed.
- b. Vendor References: Provide the name, contact information and services provided by three vendors your team regularly work with.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- c. Project Manager References: Two business related references, giving name, company, address, telephone number and business relationship to proposed project manager.

7. Management Fee

- a. Provide a proposed fixed monthly rate for services contained in this RFP.
- b. Provide a complete list of all staff hourly rates by category, i.e., Principal, Project Manager, Project Professional, Technician, Clerical, etc.

8. Schedules and Attachments (Required with submission)

1. **Schedule E - Project Consultant Team**
2. **Schedule O - Campaign Contribution Limits**
3. **Schedule W – Border Wall Prohibition**
4. **Copy of real estate broker license issued by the State of California**

Other schedules must be submitted prior to full contract execution and are available at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>

- 9. Addenda - Proposal and Acknowledgment of all Addenda – if issued, please provide signed addenda and submit with proposal.
- 10. Proprietary Information: All responses to the RFP become the property of FOT. To withhold financial and proprietary information, please label each page as "confidential" or "proprietary", and indicate where these will be available for review by FOT staff.
- 11. Public Records Act or Sunshine Ordinance: Although a document may be labeled "confidential" or "proprietary", information is still subject to disclosure under the Public Records Act or Sunshine Ordinance, and is, at FOT's discretion, based on the potential impact of the public's interests whether to disclose "confidential" or "proprietary" information.

D. REJECTION OF PROPOSAL ELEMENTS

FOT reserves the right to reject any or all proposals, whether minimum qualifications are met, and to modify, postpone, or cancel this RFP without liability, obligation, or commitment to any party, firm, or organization. FOT reserves the right to request and obtain additional information from any candidate submitting a proposal. A proposal may be rejected for any of the following reasons:

- Proposal received after designated time and date.
- Proposal not containing the required elements, exhibits, nor organized in the required format.
- Proposal considered not fully responsive to this RFP.

E. EVALUATION OF PROPOSALS

The following criteria and the points for each criterion, for a total of 110 points, may be used in evaluating and rating the proposals received:

- 1) Relevant Experience30 points
 - Representative properties managed within the past five (5) years, including contact names and phone numbers.
 - Representative properties managed in Oakland, including contact names and phone numbers.
 - Experience/expertise with financial reporting and bookkeeping.
 - Experience providing asset and property management services for historic buildings, schools, restaurants, and/or theaters.
 - Prior experience and ability to work with City staff and other stakeholders.
- 2) Qualifications25 points
 - Professional background and qualifications of team members and firms comprising the team.
 - Extensive experience providing asset and property management services, including at least five (5) properties managed.
 - Licensed real estate broker registered to work in the State of California.
 - Unique qualities that make the Property Manager well suited to perform the work.
- 3) Organization20 points
 - Current workload, available staff and resources.
 - Capacity and flexibility to meet schedules, including any unexpected work.
 - Ability to perform on short notice and under time constraints.
 - Cost control procedures in design and construction.
 - Ability to perform numerous projects at the same time.
- 4) Approach20 points
 - Understanding of the nature of the building and extent of the services required.

- A specific outline of how the work will be performed.
- Awareness of potential problems and providing possible solutions.
- Special resources the team offers that are relevant to the successful completion of the project.

5) L/SLBE Certified Business Participation2-5 Points

6) Other Factors.....10 points

- Presentation, completeness, clarity, organization, and responsiveness of proposal.

F. INTERVIEW OF SHORT-LISTED FIRMS

Interviews of short-listed qualified candidates may be held if a selection is not made from the proposal evaluation phase.

G. CONTRACT NEGOTIATIONS AND AWARD

1. The completion of the evaluation of proposals will result in the contractor being numerically ranked. The contractor ranked first will be invited to participate in contract negotiations. Should FOT and the first ranked contractor not be able to reach an agreement as to the contract terms within a reasonable timeframe, FOT may terminate the negotiations and begin negotiations with the contractor that is next in line.
2. The contract amount (including reimbursements) shall be a not to exceed amount, to be established based upon a mutually agreeable Scope of Services and fee schedule.
3. Upon successful completion of the negotiations, FOT will award the contract to the selected contractor.
4. A sample management agreement is included in the RFP as referenced as Attachment A “Sample Management Agreement”. The selected contractor will be required to enter into a contract that contains similar terms and conditions as in the sample agreement.
5. The selected contractor and its other members will be required to maintain auditable records, documents, and papers for inspection by authorized local, state and federal representatives. Therefore, the contractor and its other members may be required to undergo an evaluation to demonstrate that the contractor uses recognized accounting and financial procedures.

END OF RFP



ATTACHMENT A

SAMPLE ONLY
MANAGEMENT AGREEMENT
BETWEEN THE FOX OAKLAND THEATER, INC.
AND
Name of Property Manager

This Property Management Services Agreement (the “Agreement”) is entered into by and between Fox Oakland Theater, Inc., a California non-profit public benefit corporation, (“FOT”), and **Name of Property Manager** (“Manager” or “Contractor”), a California corporation to manage the Fox Oakland Theater (“Fox”).

RECITALS

- A. FOT is the owner of the Fox, an historic three-story building located in the Uptown District of Downtown Oakland. The Fox is on the National Register of Historic Places and is a fully-occupied mixed-use project.
- B. The Oakland Redevelopment Successor Agency (“Agency”), as the successor of the Redevelopment Agency of the City of Oakland (“RDA”), is the fee owner of that certain real property located at 1807 Telegraph Avenue, Oakland, California, 94612 (APN 08-642-16), as more particularly described in the attached **Exhibit A** (the “Site”).
- C. The RDA, as succeeded by the Agency, entered into a Disposition and Development Agreement with Oakland Renaissance NMTC, Inc. on August 30, 2005, as amended and restated on December 15, 2006 with FOT, and as further amended (the “DDA”), whereby the Agency desired the Site be renovated to restore the Fox and surrounding wrap around buildings to accommodate three uses: (1) a theater with platform seating and food and beverage services; (2) facilities for the Oakland School for the Arts; and (3) ancillary retail on the Site.
- D. The RDA, as succeeded by the Agency, further entered into a ground lease with FOT on September 20, 2006, as amended (the “Ground Lease”), whereby the Site was ground leased to FOT for a term of sixty (60) years.
- E. The Fox consists of a 2,800-seat concert hall and wrap around buildings, which consists of the following: (1) a 69,450 square foot performing arts venue operated by Another Planet Entertainment (“APE”); (2) a 1,300 square foot bar and event space operated by APE; (3) a 62,910 square foot space that is occupied by the Oakland School for the Arts (“OSA”), a public charter school in the Oakland Unified School District; and (4) a 4,503 square foot of arcade bar venue space operated by Emporium LLC (“Emporium”), as more particularly described in the attached floor plans in **Exhibit B** (collectively “Tenants”).
- F. Manager is engaged in the business of property management and has extensive experience in the operation of historic multi-use nonresidential properties.
- G. FOT desires to retain the services of Manager to manage the Fox for the benefit of FOT on the terms and conditions set forth in this Agreement.

AGREEMENT

THEREFORE, in consideration of the above recitals (which the Parties agree are true and correct and are incorporated into this Agreement by reference) and performance of the respective covenants herein described, FOT and Manager agree to the following terms and conditions:

Manager shall operate, manage, and maintain the Fox during the term of this Agreement and perform the tasks as described in detail below:

1. Parties and Effective Date

This Agreement is made and entered into as of [REDACTED], 2020 (“Effective Date”), between FOT and Manager (collectively “Parties” or individually a “Party”).

2. Scope of Services

Manager agrees to perform the property management and accounting services specified in **Schedule A**, Scope of Services attached to this Agreement and incorporated herein by reference. Manager shall designate an individual who shall be responsible for communications with FOT for the duration of this Agreement. The Project Manager for FOT shall be **Project Manager**.

3. Term

a. Initial Term and Extension Options

The initial term of this Agreement is five (5) years, commencing [REDACTED], 2020 and terminating on [REDACTED], 2025.

Provided Manager is not then in Default (defined in Section ____ below), FOT shall have the option (“Extension Option”) to extend the Term for two (2) additional consecutive periods of five (5) years each (each, an “Extension Period”), by giving written notice to Manager of the exercise of such Extension Option at least six (6) months prior to the expiration of the initial (or then current) Term. Upon such exercise, the terms of this Agreement shall be extended for the applicable Extension Period upon written acceptance of the Extension Option by the Manager. The initial term plus any exercised Extension Periods shall be referred to herein as the “Term.” Any extension of the Term shall be upon all the terms and conditions set forth in this Agreement and all Exhibits hereto, except that: (i) there shall be no further option to extend the Term of this Agreement following the second Extension Period; and (ii) failure to exercise an Extension Option shall void all future Extension Options.

b. Month-to-Month Continuation

Upon expiration of this Agreement pursuant to Section 3a above, Manager’s rights and obligations under this Agreement shall continue on a month-to-month basis on the same terms and conditions as provided in this Agreement, until terminated by FOT or Manager with one hundred eighty (180) days’ prior written notice.

4. Compensation and Method of Payment

Manager will be paid **\$Amount**, based upon the scope of services in **Schedule A** and the budget by deliverable task and billing rates in **Schedule B**.

5. Independent Contractor

a. Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Manager shall be, and is, an independent contractor, and is not an employee of FOT. Manager has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Manager in the performance of Manager's services hereunder. Manager shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Manager's own acts and those of Manager's subordinates and employees. Manager will determine the method, details and means of performing the services described in **Schedule A**.

b. Manager's Qualifications

Manager represents that Manager has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of FOT. Manager warrants that the Manager, and the Manager's employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Manager's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Manager will promptly advise FOT of any change in the applicable laws, regulations, or other conditions that may affect property management and accounting services provided at the Fox. This means Manager can fulfill the requirements of this Agreement. Failure to perform all the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Manager has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this agreement, Manager shall complete **Schedule M, Independent Contractor Questionnaire**, attached hereto.

c. Payment of Income Taxes

Manager is responsible for paying, when due, all income taxes, including estimated taxes, incurred because of the compensation paid by FOT to Manager for services under this Agreement. On request, Manager will provide FOT with proof of timely

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

payment. Manager agrees to indemnify FOT for any claims, costs, losses, fees, penalties, interest or damages suffered by FOT resulting from Manager's failure to comply with this provision.

d. Non-Exclusive Relationship

Manager may perform services for, and contract with, as many additional clients, persons or companies as Manager, in his or her sole discretion, sees fit.

e. Tools, Materials and Equipment

Manager will supply all tools, materials and equipment required to perform the services under this Agreement.

f. Cooperation of FOT

FOT agrees to comply with all reasonable requests of Manager necessary to the performance of Manager's duties under this Agreement.

g. Extra Work

Manager will do no extra work under this Agreement without first receiving prior written authorization from FOT.

6. Proprietary or Confidential Information of FOT

Manager understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Manager may have access to private or confidential information which may be owned or controlled by FOT and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to FOT. Manager agrees that all information disclosed by FOT to Manager shall be held in confidence and used only in performance of the Agreement. Manager shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

7. Ownership of Results

Any interest of Manager or its Subcontractors, in specifications, studies, reports, memoranda, computation documents prepared by Manager or its Subcontractors in drawings, plans, sheets or other connection with services to be performed under this Agreement shall be assigned and transmitted to FOT. However, Manager may retain and use copies for reference and as documentation of its experience and capabilities.

8. Copyright

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

As applicable, Manager shall execute appropriate documents to assign to FOT the copyright to works created pursuant to this Agreement.

9. Audit

Manager shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement; and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement.

Manager shall (a) permit FOT to have access to those records for making an audit, examination or review of financial and performance data pertaining to this Agreement; and (b) maintain such records for a period of four (4) years following the last fiscal year during which FOT paid an invoice to Manager under this Agreement.

In addition to the above, Manager agrees to comply with all audit, inspection, recordkeeping and fiscal reporting requirements incorporated by reference.

10. Agents/Brokers

Manager warrants that Manager has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Manager working solely for Manager, to solicit or secure this Agreement, and that Manager has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

11. Assignment

Manager shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of FOT and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

12. Subcontracts

a. Rights and Responsibilities

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

Manager may subcontract with vendors, consultants, service or design professionals, licensed general contractors, or other independent contractors (“Subcontractors”) approved by FOT pursuant to written agreements (“Subcontracts”) meeting the requirements of this Agreement. Each Subcontractor must agree to abide by the applicable terms and conditions of this Agreement, including the applicable insurance requirements described in Section 14, or such other insurance requirements as may be approved by FOT at the request of Manager prior to execution of the Subcontract. Each Subcontract shall be subject to this Agreement, and shall terminate automatically upon expiration or termination, with or without cause, of this Agreement. Subcontractors must obtain and keep current a valid Oakland Business Tax Certificate for the term of their work.

b. Contract Limitations

All Subcontracts for amounts greater than Five Thousand Dollars (\$5,000) must be approved by FOT in accordance with the provisions of this Agreement.

c. Governmental Requirements

Subcontracts are subject to compliance with all Applicable Laws (to the extent applicable to the type and scope of services to be provided by the Subcontractor), including the applicable requirements described in this Agreement.

d. Public Works Projects

Without limiting the foregoing, in connection with contracting for any capital improvement projects that constitute public works projects, Manager shall comply with all applicable City requirements concerning bidding procedures, performance and payment bonds, insurance, and so forth, in conformance with Chapter 2.04 (Purchasing System) of the Oakland Municipal Code and as further specified on City’s Contracts and Compliance Website described in Section 43.2.

13. Title of Property

Title to all property, real and personal, acquired by the Manager from FOT, Agency, or City funds shall vest in the name of FOT, Agency, or City, as applicable, and shall be accounted for by means of a formal set of property records. Manager acknowledges it is responsible for the protection, maintenance and preservation of all such property held in custody for FOT during the term of the Agreement. Manager shall, upon expiration or termination of this Agreement, deliver to FOT all of said property and documents evidencing title to same. In the case of lost or stolen items or equipment, the Manager shall immediately notify the Police Department, obtain a written police report and notify FOT in accordance with “Notice” section of this Agreement.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

Manager shall provide to FOT all property-related audit and other reports required under this Agreement. In the case of lost or stolen items or equipment, the Manager shall immediately notify the Police Department, obtain a written police report and notify FOT in accordance with the “Notice” section of this Agreement.

Prior to the disposition or sale of any real or personal property acquired with FOT, Agency, or City funds, Manager shall obtain prior approval by FOT and if applicable, by the City Council and Agency, in accord with the requirements for disposal or sale of real or personal surplus property set forth in the Oakland City Charter and/or Oakland Municipal Code Title 2.04, Chapter 2.04.120. Surplus supplies and equipment – Disposal or Destruction.

14. Insurance

Unless a written waiver is obtained from the City’s Risk Manager, Manager must provide the insurance listed in **Schedule Q, Insurance Requirements**. **Schedule Q** is attached at the end of this sample agreement and incorporated herein by reference.

15. Indemnification

- a. Notwithstanding any other provision of this Agreement, Manager shall indemnify and hold harmless (and at FOT’s request, defend) FOT, the Tenants, the Agency, the City of Oakland, and each of their respective Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as “Indemnitees” or individually as “Indemnitee”) from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) caused by or arising out of any:
 - (i) Breach of Manager’s obligations, representations or warranties under this Agreement;
 - (ii) Act or failure to act in the course of performance by Manager under this Agreement;
 - (iii) Negligent or willful acts or omissions in the course of performance by Manager under this Agreement;
 - (iv) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Manager;
 - (v) Unauthorized use or disclosure by Manager of Confidential Information as provided in Section 6 Proprietary of Confidential Information of FOT above; and

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- (vi) Claim of infringement or alleged violation of any United States patent right or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights of any third party.
 - b. For purposes of the preceding Subsections (i) through (vi), the term “Manager” includes Manager, its officers, directors, employees, representatives, agents, servants, sub-consultants and subcontractors.
 - c. FOT shall give Contractor prompt written notice of any such claim of loss or damage and shall cooperate with Manager, in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests.
 - d. Notwithstanding the foregoing, FOT shall have the right if Manager fails or refuses to defend FOT with Counsel acceptable to FOT to engage its own counsel for the purposes of participating in the defense. In addition, FOT shall have the right to withhold any payments due Manager in the amount of anticipated defense costs plus additional reasonable amounts as security for Manager's obligations under this Section 15. In no event shall Manager agree to the settlement of any claim described herein without the prior written consent of FOT.
 - e. Manager acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any action or claim which potentially falls within this indemnification provision, which obligation shall arise at the time any action or claim is tendered to Manager by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnitee. Notwithstanding anything to the contrary contained herein, Manager’s liability under this Agreement shall not apply to any action or claim arising from the sole negligence, active negligence or willful misconduct of an Indemnitee.
 - f. All of Manager’s obligations under this Section 15 are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.
 - g. The indemnity set forth in this Section 15 shall not be limited by the City’s insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement. City’s liability under this Agreement shall be limited to payment of Manager in accord to the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.
16. Right to Offset Claims for Money
- All claims for money due or to become due from FOT shall be subject to deduction or offset by FOT from any monies due Manager because of any claim or counterclaim arising out of: i) this Agreement, or ii) any purchase order, or iii) any other transaction with Manager.

17. Prompt Payment Ordinance

The following provisions are included in this Agreement pursuant to Section 2.06.070 of the Oakland Municipal Code:

This Agreement is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06. The Ordinance requires that, unless specific exemptions apply, Manager and its Subcontractors shall pay undisputed invoices of their respective subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless Manager or its Subcontractors notify the City of Oakland Prompt Payment Liaison in writing within five (5) business days that there is a bona fide dispute between Manager or its Subcontractor and the claimant, in which case Manager or its Subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed late payments are subject to investigation by the City of Oakland Prompt Payment Liaison, Division of Contracts and Compliance. Upon the filing of a complaint, Manager or its Subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits directly to claimants for valid claims.

Manager and its Subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Manager and its Subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City.

For the purpose of posting on the City's website, Manager and its Subcontractors are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and Manager is required to file an affidavit, under penalty of perjury, that it has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

Prompt Payment invoice and claim forms are available at the following City of Oakland website: <https://www.oaklandca.gov/resources/prompt-payment-forms> or at Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandca.gov.

18. Required Compliance Statements

a. Arizona and Arizona-Based Businesses

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

Consistent with City’s **Schedule B-1**, Declaration of Compliance with the Arizona Resolution 82727, Manager hereby represents that it is not headquartered in Arizona.

b. Dispute Disclosure

Consistent with City’s **Schedule K**, Pending Dispute Disclosure, Manager hereby represents that it is not involved in a pending dispute or claim against FOT, the Agency, the City, or its agencies.

c. Nuclear Free Zone Disclosure

Consistent with City’s **Schedule P**, Nuclear Free Zone Disclosure Form, Manager hereby represents that it is in compliance with the City of Oakland’s restrictions on doing business with service providers considered nuclear weapons makers, pursuant to City of Oakland Ordinance 11478 C.M.S. titled “An Ordinance Declaring the City of Oakland a Nuclear Free Zone and Regulating Nuclear Weapons Work and City Contracts with and Investment in Nuclear Weapons Makers.”

d. Border Wall Prohibition

Consistent with City’s **Schedule W**, Border Wall Prohibition, Manager must represent that it does not provide any services, goods, equipment or information technology or cloud-based technology or services, to construction of a wall along any part of the United States - Mexico border.

20. Termination on Notice

FOT may terminate this Agreement immediately for cause or without cause upon giving (30) calendar days’ written notice to Manager. Unless otherwise terminated as provided in this Agreement, this Agreement will terminate on , 2025.

21. Conflict of Interest

a. Manager

The following protections against conflict of interest will be upheld:

- i. Manager certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.
- ii. Manager certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.

- iii. Manager shall immediately notify FOT of any real or possible conflict of interest between work performed for FOT, the Tenants, the Agency, or the City and for other clients served by Manager.
- iv. Manager warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Manager shall exercise due diligence to ensure that no such official will receive such an interest.
- v. Manager further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Manager to FOT, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Manager or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. Manager agrees to promptly disclose to FOT in writing any information it may receive concerning any such potential conflict of interest. Manager's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).
- vi. Manager understands that in some cases Manager or persons associated with Manager may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

Section 1090 and/or the Political Reform Act. Manager further understands that, as a public officer or official, Manager or persons associated with Manager may be disqualified from future City contracts to the extent that Manager is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.

- vii. Manager shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

b. No Waiver

Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation

c. Remedies and Sanctions

In addition to the rights and remedies otherwise available to FOT and the City under this Agreement and under federal, state and local law, Manager understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, FOT may (1) suspend payments under this Agreement, (2) terminate this Agreement, (3) require reimbursement by Manager to FOT of any amounts disbursed under this Agreement. In addition, FOT may suspend payments or terminate this Agreement whether or not Manager is responsible for the conflict of interest situation.

22. Non-Discrimination/Equal Employment Practices

Manager shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Manager agrees as follows:

- a. Manager and Manager's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- b. Manager and Manager’s Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Manager that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Manager shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act**, attached hereto and incorporated herein.
- d. If applicable, Manager will send to each labor union or representative of workers with whom Manager has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers’ representative of Manager’s commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

23. Local and Small Local Business Enterprise Program (L/SLBE)

- a. Requirement – Subcontracts entered into by Manager shall be subject to the City’s current Local and Small Local Business Enterprise Program administered by the Compliance Office, a copy of which is attached hereto as Exhibit D (the “L/SLBE Program”). Unless exempted or otherwise agreed to by City, Subcontracts entered into by Manager shall be subject to a fifty percent (50%) minimum participation requirement for all construction contracts at or over One Hundred Thousand Dollars (\$100,000), all professional services contracts of Fifty Thousand Dollars (\$50,000) or more, and all purchases of commodities, goods and associated services over Fifty Thousand Dollars (\$50,000), as set forth in the L/SLBE Program. Applicable Subcontractors shall comply with the fifty percent (50%) local business participation requirement, and provide an Oakland Apprenticeship Program at a rate of fifteen percent (15%). The requirement may be satisfied by a certified prime consultant and/or sub-consultant(s), or a small local certified firm may be used to meet the fifty percent (50%) requirement. A business must be certified by City of Oakland in order to earn credit toward meeting the fifty percent (50%) requirement.
- b. Good Faith Effort – In light of the fifty percent (50%) requirement, good faith effort documentation is not necessary.
- c. Preference Points – Upon satisfying the minimum fifty percent (50%) requirement, a consultant will earn two (2) preference points. Three (3) additional preference points may be earned at a rate of one (1) point for every additional ten percent (10%) participation up to eighty percent (80%) participation of the total contract dollars spent with local Oakland certified firms.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- d. Banking – City will allow banking of credits for L/SLBE participation that exceeds fifty percent (50%) on a City funded project and will allow consultants to accumulate credits for hiring certified local businesses and certified small local businesses on non-city funded projects within a year of City funded project. Banked credits will count toward achieving a bid discount or preference points (up to 2%) on a City contract. The ability of firms to bank credits or hours on non-City projects will not be retroactive. Consultants will have one (1) year to apply credits. A certificate validating banked credits must be issued by City prior to the submittal or bid date.
- e. The Exit Report and Affidavit (ERA) – This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must complete the **Schedule F, Exit Report and Affidavit** for, and have it executed by, each L/SLBE sub consultant and submitted to the Office of the City Administrator, Contracts and Compliance Unit, along with a *copy* of the final progress payment application.
- f. Joint Venture and Mentor Protégé Agreements – If a prime contractor or prime consultant can develop a Joint Venture or “Mentor-Protégé” relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. To earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Office of the City Administrator, Contracts and Compliance Unit, prior to the project bid date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.
- g. Subcontractor Reporting – Each subcontractor shall submit information as may be required by the L/SLBE Program concerning the ownership and workforce composition of Contractor’s firm as well as its subcontractors and suppliers, by completing the City’s published **Schedule D, Ownership, Ethnicity, and Gender Questionnaire**, and **Schedule E, Project Consultant Team**, and **Schedule F, Exit Report and Affidavit**, all of which can be found on the City’s Contracts and Compliance Website.
- h. Tracking – All affirmative action efforts of contractors are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
- i. Outreach Obligations – In the recruitment of subcontractors, the City requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland’s business community. In the recruitment, hiring, and retention of employees or subcontractors, all contractors shall ensure the absence of unlawful discrimination based on age, marital status, religion, gender, sexual preference, race,

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.

24. Living Wage Ordinance

This Agreement is subject to the Oakland Living Wage Ordinance of Chapter 2.28 of the Oakland Municipal Code (the “Living Wage Ordinance”) and its implementing regulations. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to the Manager’s employees. Unless specific exemptions apply or a waiver is granted, Manager must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial **hourly wage rate of \$14.35 with health benefits or \$16.47 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. **Effective July 1st of each year, Manager shall pay adjusted wage rate.**
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$2.12 or at the minimum levels established by the City pursuant to the Living Wage Ordinance from time to time. Manager shall provide proof that health benefits are in effect for those employees no later than thirty (30) days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve (12) compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten (10) uncompensated days off per year for sick leave. Employees shall accrue one (1) compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six (6) months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required twelve (12) compensated days off. Ten (10) uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) – To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist you. Web sites include but are not limited to: (1) <http://www.irs.gov> for current guidelines as prescribed by the Internal Revenue Service.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- e. Notices – Manager shall provide to all employees and to the Division of Contracts and Compliance, written notice of its obligation to eligible employees under the City’s Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Languages – Manager shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within thirty (30) days of employment under this Agreement.
- g. Reporting – Manager shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Manager shall provide a copy of said list to the Division of Contracts and Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five (5) days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Manager shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Subcontracts – Manager shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Manager shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Division of Contracts and Compliance.

25. Minimum Wage Ordinance

Oakland employers are subject to Oakland’s Minimum Wage Law (Chapter 5.92 of the Oakland Municipal Code), whereby Oakland employees must be paid the current Minimum Wage rate. Employers must notify employees of the annually adjusted rates by each December 15th and prominently display notices at the job site. The law requires paid sick leave for employees and payment of service charges collected for their services. This contract is also subject to Oakland’s Living Wage Ordinance (see Section 24, above), and must pay employees wages and provide benefits consistent with the Living Wage Ordinance, whichever are greater.

For further information, please go to the following website:
<https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges>

26. Equal Benefits Ordinance

Manager agrees to comply with the Equal Benefits Ordinance, Municipal Code, Chapter 2.32 of the Oakland Municipal Code and its implementing regulations, by providing employee benefits to its employees with domestic partners equivalent to those provided to its employees with spouses. This ordinance covers all benefits that an employer offers

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

its employees and their spouses, which include health benefits, bereavement leave, family leave, retirement benefits, travel and other benefits. If Manager does not provide employees with spousal benefits, it is not required to change its benefits policies. Upon reasonable request by the City’s Contracts and Compliance Division (“Compliance Office”), Manager shall execute the City’s **Schedule N-1, Equal Benefits – Declaration of Non-Discrimination**.

27. **City of Oakland Campaign Contribution Limits**

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations. Consistent with the City’s **Schedule O, Acknowledgment of Campaign Contribution Limits**, Manager hereby represents as follows:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland and the Oakland Redevelopment Agency during specified time periods. Violators are subject to civil and criminal penalties.

Manager has read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certifies that Manager has not knowingly, nor will it, make contributions during the period specified in the Act.

Manager understands that the contribution restrictions also apply to entities/persons affiliated with the Manager as indicated in the Oakland Municipal Code Chapter 3.12.080.

If there are any changes to the information herein during the contribution-restricted time period, Manager will notify the City of Oakland.

28. **Local Employment Program**

Subcontracts entered into by Manager shall be subject to the City’s Local Employment Program. Unless exempted or otherwise agreed to by City, Subcontracts entered into by Manager for the purchase of construction services shall cause the hiring of Oakland residents on public works projects.

29. **Political Prohibition**

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

Subject to applicable State and Federal laws, funds received pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate’s meetings, engaging in voter registration activity, or for publicity or propaganda designed to support or defeat legislation and ballot measures pending before federal, state, or local government. Manager shall not use the Property for political purposes, including political fundraising and campaigning.

30. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of this Agreement.

31. Business Tax Certificate

Manager shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this Agreement.

32. Surrender of the Property

At the expiration of the Term of this Agreement or earlier termination, Manager shall surrender its occupancy of the Fox and deliver the Fox, fixtures, furniture, equipment and other tangible personal property (“FF&E”) (as indicated by the agreed upon FF&E Inventory) to FOT in as good a condition as it is on the date of this Agreement, excluding reasonable wear and tear, reasonably clean and free of debris. Manager shall repair any damage to the Property caused by the installation or removal of Manager’s Personal Property.

33. Partial Invalidity of Contracts

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect unimpaired by the holding.

34. Governing Law

This Agreement shall be governed by the laws of the State of California.

35. Notice

Except as otherwise expressly provided by law, any and all notices, approvals or other communications required or permitted by this Agreement or by law to be served on or given to FOT by Manager or given to Manager by FOT shall be in writing and shall be deemed duly served and given as follows: (i) if served by mail, three (3) business days after deposit in the

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

United States mail, first-class postage prepaid, addressed as set forth below, (ii) if served by personal delivery, upon such delivery; or (iii) if sent by email, upon written acknowledgment of receipt by the recipient, provided that an automatic reply shall not constitute acknowledgment of an email.

If to FOT:

Attn: _____
Project Manager
City of Oakland
250 Frank Ogawa Plaza
Suite 5313
Oakland, CA 94612
[\[email address\]](#)

with a copy to:

Attn: Supervising Deputy City Attorney for Real Estate
Office of the Oakland City Attorney
1 Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612

If to Manager:

Attn: [Name of Manager's Contact]
[Insert Title]
[Name of Property Manager]
[Street Address]
[City, State ZIP]
[\[email address\]](#)

with copy to:

Attn: [Manager's Attorney]
[Name of Attorney]
[Street Address]
[City, State ZIP]
[\[email address\]](#)

36. Entire Agreement of the Parties

This Agreement supersedes all agreements, either oral or written, between the parties with respect to the rendering of services by Manager for FOT and contains all the representations, covenants and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

37. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

38. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

39. Time of the Essence

Time is of the essence in the performance of this Agreement.

40. Commencement, Completion and Close out

It shall be the responsibility of the Manager to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Manager to enable Manager to complete the work must be in writing and shall not constitute a waiver of rights FOT may have under this Agreement.

Should Manager not complete the work by the scheduled date or by an extended date, FOT shall be released from all its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, the Manager shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to FOT. Failure of the Manager to timely submit a complete and accurate requisition for final payment shall relieve FOT of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Manager.

41. Approval

If the terms of this Agreement are acceptable to Manager and FOT, sign and date below.

42. Inconsistency

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

If there is any inconsistency between the main agreement and the attachments/exhibits, the text of the main agreement shall prevail.

42. Exhibits

The following exhibits and schedules attached hereto or incorporated herein by reference shall be deemed a part of this Agreement; provided, however, that in the event of any conflict or inconsistency between the provisions of the main body of this Agreement and the provisions of any such exhibits or schedules, the main body of this Agreement shall control.

Fox Oakland Theater, Inc,
a California nonprofit organization

Name of Property Manager

(FOT Board of Directors) (Date)

(Signature) (Date)

(FOT Director's Signature) (Date)

Business Tax Certificate No.

Date of Expiration

END OF MANAGEMENT AGREEMENT SAMPLE

**ATTACHMENT B1
(Stand-Alone Schedules Required with Proposal)**

**SCHEDULE E
(PROJECT CONSULTANT TEAM LISTING)**

An interactive version of this form can be downloaded from Contract s and Compliance website <https://www.oaklandca.gov/uploads/documents/OAK023379.pdf> or request for a copy from Paula Peav at ppeav@oaklandca.gov or phone number 510-238-3190

AND

**SCHEDULE O
(CAMPAIGN CONTRIBUTION LIMITS)**

An interactive version of this form can be downloaded from Contract s and Compliance website <https://www.oaklandca.gov/uploads/documents/OAK023287.pdf> or request for a copy from Paula Peav at ppeav@oaklandca.gov or phone number 510-238-3190

AND

**SCHEDULE W
(BORDER WALL PROHIBITION FORM)**

An version of this form can be downloaded from Contract s and Compliance website <https://www.oaklandca.gov/uploads/documents/Schedule-W-Form-Border-Wall-Prohibition.pdf> or request for a copy from Paula Peav at ppeav@oaklandca.gov or phone number 510-238-3190

REQUEST FOR PROPOSAL- PROPERTY MANAGER FOR THE FOX OAKLAND THEATER



SCHEDULE O

CONTRACTOR ACKNOWLEDGEMENT OF CITY OF OAKLAND CAMPAIGN CONTRIBUTION LIMITS

To be completed by City Representative prior to distribution to Contractor	
City Representative _____	Phone _____ Project Spec No. _____
Department _____	Contract/Proposal Name _____
This is an <input type="checkbox"/> Original <input type="checkbox"/> Revised form (check one). If Original, complete all that applies. If Revised, complete Contractor name and any changed data.	
Contractor Name _____ Phone _____-_____-_____	
Street Address _____	City _____, State _____ Zip _____
Type of Submission (check one) <input type="checkbox"/> Bid <input type="checkbox"/> Proposal <input type="checkbox"/> Qualification <input type="checkbox"/> Amendment	
Majority Owner (if any). A majority owner is a person or entity who owns more than 50% of the contracting firm or entity.	
Individual or Business Name _____ Phone _____-_____-_____	
Street Address _____	City _____, State _____ Zip _____
The undersigned Contractor's Representative acknowledges by his or her signature the following:	
<p>The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland and the Oakland Redevelopment Agency during specified time periods. Violators are subject to civil and criminal penalties.</p> <p>I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act and certify that I/we have not knowingly, nor will I /we make contributions during the period specified in the Act.</p> <p>I understand that the contribution restrictions also apply to entities/persons affiliated with the contractor as indicated in the Oakland Municipal Code Chapter 3.12.080.</p> <p>If there are any changes to the information on this form during the contribution-restricted time period, I will file an amended form with the City of Oakland.</p>	
_____ Signature	____/____/____ Date
_____ Print Name of Signer	_____ Position
To be Completed by City of Oakland after completion of the form	
Date Received by City: ____/____/____	By _____
Date Entered on Contractor Database: ____/____/____ By _____	

SCHEDULE W
BORDER WALL PROHIBITION

(This form is to be completed by Contractors and their sub-contractors, and all Vendors seeking to do business with the City of Oakland)

I, _____, the undersigned, a
(Name)

_____ of _____
(Title) (Business Entity)

(hereinafter referred to as Business Entity am duly authorized to attest on behalf of the business Entity)

- I. Neither this Business Entity nor any of its subsidiaries, affiliates or agents are under contract with any branch of the federal government to plan, design, build, support, repair and/or maintain any part of the border wall nor do we anticipate entering or competing for such work for the duration of a contract or contracts with the City of Oakland.
- II. The appropriate individuals of authority are cognizant of their responsibility to notify the city contact person/Project Manager, invoice reviewer or the City Administrator’s Office of Contracts and Compliance if any of the identified above decide to compete, plan, design, build, support, repair and/or maintain any part of work or servicing the border wall.
- III. To maintain compliance, upon review and approval of invoices, the contractors/vendors hereby agree to submit attached to each invoice, a declaration on company stationery that the company remains in compliance with the Border Wall Prohibition and will not seek or secure a contract related to all aspects of the Border Wall
- IV. Upon close out or completion of deliverables and prior to issuance of final payment (while honoring the Prompt Payment Ordinance) I agree to submit a statement attached to the final invoice, under penalty of perjury, declaring full compliance with the Border Wall Prohibition. I understand that an invoice is not declared fully complete and accepted unless and until the declaration of compliance is accepted.
- V. I declare under penalty of perjury that the above will not, have not and do not plan to participate in the building, servicing, maintenance of the operations of the so called “Border Wall”.

I declare that I understand Ordinance #13459 C.MS. Based on my understanding the above is true and correct to the best of my knowledge.

I declare that I understand Ordinance #13459 C.MS. Based on my understanding all or a portion of the above is not true and correct to the best of my knowledge.

(Printed Name and Signature of Business Owner) (Date)

(Name of Business Entity) (Street Address City, State and Zip Code)

(Name of Parent Company)

**ATTACHMENT B2
(Stand-Alone Schedules Required Prior to Contract Award)**

**SCHEDULE E-2
(OAKLAND WORKFORCE
VERIFICATION)**

An interactive version of this form can be downloaded from Contracts and Compliance website <https://www.oaklandca.gov/uploads/documents/oak043692.pdf> or request for a copy from Paula Peav at ppeav@oaklandca.gov or phone number 510-238-3190

AND

**SCHEDULE Q
(INSURANCE REQUIREMENTS)**

An interactive version of this form can be downloaded from Contracts and Compliance website <https://www.oaklandca.gov/uploads/documents/OAK023255.pdf> or request for a copy from Paula Peav at ppeav@oaklandca.gov or phone number 510-238-3190

REQUEST FOR PROPOSAL- PROPERTY MANAGER FOR THE FOX OAKLAND THEATER



Oakland Workforce Verification

Schedule E-2

Date Submitted: _____ Consultant/Service Provider: _____ Phone: _____

Address: _____ email: _____ # additional sheets attached: _____

PLEASE NOTE: All prime consultants seeking additional preference points for Oakland workforces must complete this form and submit with "required attachments" to Contracts and Compliance no later than four (4) days after proposal due date. For questions, please contact the assigned Compliance Officer named in the RFP/RFQ.

REQUIRED ATTACHMENTS
Please check box below to confirm attachments

EMPLOYEE Use additional sheets if needed	CURRENT STREET ADDRESS	DATE OF HIRE	LAST 4 DIGITS OF Soc. Sec. #	WORK CLASSIFICATION	REQUIRED ATTACHMENTS		
					1 Valid Photo ID	2 Other Proof of Oakland Residency	3 DE9
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

PLEASE NOTE BELOW:

- 1) A valid photo ID is required to prove Oakland residency. If the employee does not have a valid photo ID, the employer must submit at least two (2) other acceptable forms of ID/Other acceptable proofs of residency. Valid photo IDs include: a) U.S. Passport, b) Employment Authorization Document, c) State Driver's license or ID Card, d) School ID Card, and/or e) U.S. Military Card.
- 2) Other Acceptable Proofs of Oakland Residency: Utility Bills, Bank Account Statements, Auto Registration, Mortgage Statements, Rental Agreements, and/or Verification of Public Assistance.
- 3) It is required that all firms submit their most recently filed DE6/9.

ADDITIONAL SHEET

Consultant/Service Provider _____ RFP/RFQ Title _____
Additional Page # _____ of _____

REQUIRED ATTACHMENTS
Please check box below to confirm attachments

EMPLOYEE Use additional sheets if needed	CURRENT STREET ADDRESS	DATE OF HIRE	LAST 4 DIGITS OF Soc. Sec. #	WORK CLASSIFICATION	REQUIRED ATTACHMENTS		
					1 Valid Photo ID	2 Other Proof of Oakland Residency	3 DE6

Schedule Q
INSURANCE REQUIREMENTS

(Revised 09/12/2019)

a. General Liability, Automobile, Workers' Compensation and Professional Liability

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of all insurance policies. The insurance shall at a minimum include:

- i. **Commercial General Liability insurance** shall cover bodily injury, property damage and personal injury liability for premises operations, independent contractors, products-completed operations personal & advertising injury and contractual liability. Coverage shall be on an occurrence basis and at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01)

Limits of liability: Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- ii. **Automobile Liability Insurance.** Contractor shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be at least as broad as Insurance Services Office Form Number CA 0001.

- iii. **Workers' Compensation insurance** as required by the laws of the State of California, with statutory limits, and statutory coverage may include Employers' Liability coverage, with limits not less than \$1,000,000 each accident, \$1,000,000 policy limit bodily injury by disease, and \$1,000,000 each employee bodily injury by disease. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.

- iv. **Professional Liability/ Errors and Omissions insurance, if determined to be required by HRM/RMD**, appropriate to the contractor’s profession with limits not less than \$_____each claim and \$_____aggregate. If the professional liability/errors and omissions insurance is written on a claims- made form:
- a. The retroactive date must be shown and must be before the date of the contract or the beginning of work.
 - b. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
 - c. If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, the contractor must purchase extended period coverage for a minimum of three (3) years after completion of work.
- v. **Contractor’s Pollution Liability Insurance:** If the Contractor is engaged in: environmental remediation, emergency response, hazmat cleanup or pickup, liquid waste remediation, tank and pump cleaning, repair or installation, fire or water restoration or fuel storage dispensing, then for small jobs (projects less than \$500,000), the Contractor must maintain Contractor’s Pollution Liability Insurance of at least \$500,000 for each occurrence and in the aggregate. If the Contractor is engaged in environmental sampling or underground testing, then Contractor must also maintain Errors and Omissions (Professional Liability) of \$500,000 per occurrence and in the aggregate.
- vi. **Sexual/Abuse insurance.** If Contractor will have contact with persons under the age of eighteen (18) years, or provides services to persons with Alzheimer’s or Dementia, or provides Case Management services, or provides Housing services to vulnerable groups (i.e., homeless persons) Contractor shall maintain sexual/molestation/abuse insurance with a limit of not less than \$1,000,000 each occurrence and \$1,000,000 in the aggregate. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
- vii. **Technology Professional Liability (Errors and Omissions) OR Cyber Liability Insurance, if determined to be required by HRM/RMD**, *appropriate to the Consultant’s profession, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of*

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

b. Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

- i. Insured Status (Additional Insured): Contractor shall provide insured status naming the City of Oakland, its Councilmembers, directors, officers, agents, employees and volunteers as insureds under the Commercial General Liability policy. General Liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 (11/85) or both CG 20 10 and CG 20 37 forms, if later revisions used). If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on an ISO form CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT; and
- ii. Coverage afforded on behalf of the City, Councilmembers, directors, officers, agents, employees and volunteers shall be primary insurance. Any other insurance available to the City Councilmembers, directors, officers, agents, employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Agreement); and
- iii. Cancellation Notice: Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the Entity; and
- iv. The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the contractor, its employees, agents and subcontractors; and
- v. Certificate holder is to be the same person and address as indicated in the “Notices” section of this Agreement; and
- vi. Insurer shall carry insurance from admitted companies with an A.M. Best Rating of A VII, or better.

c. Replacement of Coverage

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Agreement, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Agreement.

d. Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement.

e. Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if, and when, requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

f. Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the project to verify compliance with requirements.

g. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

h. Waiver of Subrogation

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors, employees and volunteers for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

i. Evaluation of Adequacy of Coverage

The City of Oakland maintains the right to modify, delete, alter or change these requirements, with reasonable notice, upon not less than ninety (90) days prior written notice.

j. Higher Limits of Insurance

If the contractor maintains higher limits than the minimums shown above, The City shall be entitled to coverage for the higher limits maintained by the contractor.

ATTACHMENT C: City Schedules and Policies

PLEASE READ CAREFULLY: It is the prospective Property Manager’s responsibility to review all listed City Schedules, Ordinances and Resolutions.

If you have questions regarding any of the schedules, Ordinances or Resolutions, please contact the assigned Contract Compliance Officer listed on the Request for Proposals (RFP).

By submitting a response to this RFP, the prospective Property Manager’s authorized representative hereby certifies that your firm or not-for profit entity has reviewed all listed City Schedules, Ordinances and Resolutions and has responded appropriately.

Note: additional details are available on our website as follows:

<https://www.oaklandca.gov/documents/contracting-policies-and-legislation>

1. Schedule B-2 - (Arizona Resolution) – Applies to all agreements and is part of the “Combined Contract Schedules”.

- i. This Agreement is subject to Resolution No. 82727 C.M.S. For full details of the Resolution please go to the City’s website <https://www.oaklandca.gov/documents/contracting-policies-and-legislation>
- ii. *Excerpt:* (Resolution #82727) RESOLVED: That unless and until Arizona rescinds SB 1070, the City of Oakland urges City departments to the extent where practicable, and in instances where there is no significant additional cost to the city or conflict with law, to refrain from entering any new or amended contracts to purchase goods or services from any company that is headquartered in Arizona.
- iii. Prior to execution of this agreement and/or upon request, the contractor shall complete the Schedule B-2 form and submit to the City. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> *(see Combined Schedules)*

2. Schedule C-1 - (Declaration of Compliance with the Americans with Disabilities Act) – Applies to all agreements and is part of the “Combined Contract Schedules”.

- i. This Agreement is subject to the Americans with Disabilities Act (ADA). It requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all its Contractors comply with their ADA obligations and verify such compliance by signing this Declaration of Compliance.
 - (1) You certify that you will comply with the Americans with Disabilities Act

- by:
- (2) Adopting policies, practices and procedures that ensure non-discrimination and equal access to Contractor’s goods, services and facilities for people with disabilities;
 - (3) Providing goods, services and facilities to individuals with disabilities in an integrated setting, except when separate programs are required to ensure equal access;
 - (4) Making reasonable modifications in programs, activities and services when necessary to ensure equal access to individuals with disabilities, unless fundamental alteration the Contractor’s program would result;
 - (5) Removing architectural barriers in existing facilities or providing alternative means of delivering goods and services when removal of barriers is cost-prohibitive;
 - (6) Furnishing auxiliary aids to ensure equally effective communication with persons with disabilities;
 - (7) If contractor provides transportation to the public, by providing equivalent accessible transportation to people with disabilities.
- ii. Prior to execution of this agreement and/or upon request, the contractor shall complete the Schedule C-1 form and submit to the City. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (see *Combined Schedules*)

For Declaration of ADA compliance for facility and other special events agreements please reference C-2 on the above web site.

3. **Schedule D** – (Ownership, Ethnicity, and Gender Questionnaire) – **Applies to any Subcontracts entered into by Manager and is part of the “Combined Contract Schedules”**. *Please be advised that ethnicity and gender information will be used for reporting and tracking purposes ONLY.*

This agreement is subject to the reporting of Ownership, Ethnicity and Gender questionnaire form. Prior to execution of this agreement and/or upon request, the contractor shall complete the Schedule D form and submit to the City. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (see *Combined Schedules*)

4. **Schedule E** – (Project Consultant or Grant Team). **Applies to any Subcontracts entered into by Manager and is a “stand alone Schedule¹” and must be submitted with proposal.**

- i. This Agreement is subject to the attached hereto and incorporated herein as Schedule E form, this form is required to be submitted with the proposal.
- ii. The form can also be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and->

¹ Stand Alone Schedule is not part of the “Combined Schedule”.

schedules.

- iii. This form is use for establishing level of certified local Oakland for profit and not for profit participation and calculating compliance with council’s 50% local participation policy.
- iv. In response to this RFP/Q or grant opportunity, the prime shall be a qualified for profit or not-for profit entity.
- v. Sub-Consultants (if used) or sub-grantees must be listed to include: addresses, telephone numbers and areas of expertise/trace category of each. Briefly describe the project responsibility of each team member. Identify if contractors are certified MBE, WBE, Local Business Enterprises (LBE) and Small Local Business Enterprise (SLBE), Locally Produced Goods or Very Small Local Business Enterprise. Additionally, for LBEs/SLBEs, please submit a copy of current business license local business certificate and date established in Oakland.

5. Schedule E-2 (Oakland Workforce Verification Form) – Referenced in Attachment B. Applies to Non-Construction agreements and is a “stand alone Schedule”, and must be submitted with proposal if seeking extra preference points for an Oakland Workforce.

- i. All prime consultants, contractors, or grantees seeking *additional preference* points for employing an Oakland workforce must complete this form and submit with "required attachments" to Contracts and Compliance no later than four (4) days after the proposal due date. For questions, please contact the assigned Compliance Officer named in the RFP/Q, NIB, and competitive grant opportunity.
- ii. The Schedule E-2 form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>

6. Schedule F – (Exit Report and Affidavit) – Applies to any Subcontracts entered into by Manager and is a “stand alone Schedule”.

- i. This Agreement is subject to the Exit Reporting and Affidavit form. The Schedule F form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>.
- ii. The Prime Contractor/Consultant/Grantee must complete this form as part of the close-out process. Each LBE/SLBE sub-contractor/sub-consultant and sub-grantee (including lower tier LBE/SLBE sub-contractors/sub-consultants, sub-grantees, suppliers and truckers). The Exit Report and Affidavit must be submitted to Contracts and Compliance with the final progress payment application. (Remember to please complete an L/SLBE Exit Report for each listed L/SLBE sub-contractor/sub-consultant or sub-grantee).

7. Schedule G – (Progress Payment Form) – Applies to all agreements and is a “stand alone

Schedule”.

This Agreement is subject to the reporting of subcontractor progress payments monthly. The Schedule G form can be found on our website at

<https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>.

8. Schedule K – (Pending Dispute Disclosure Policy) – Applies to all agreements and is part of the “Combined Contract Schedules”.

- i. Prior to execution of this agreement and/or upon request the contractor shall complete the Schedule K form and submit to the City. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (*see Combined Schedules*)
- ii. Policy – All entities are required to disclose pending disputes with the City of Oakland when they submit bids, proposals or applications for a City contract, contract amendments or transaction involving:
 - (1) The purchase of products, construction, non-professional or professional services, Contracts with concessionaires, facility or program operators or managers, Contracts with project developers, including Disposition and Development Agreements, lease Disposition and Development Agreements and other participation agreements Loans and grants, or acquisition, sale, lease or other conveyance of real property, excluding licenses for rights of entry or use of city facilities for a term less than thirty (30) consecutive calendar days.
 - (2) Disclosure is required at the time bids, proposals or applications are due for any of the above-described contracts or transactions when an entity is responding to a competitive solicitation and at the commencement of negotiations when bids, proposals or applications are solicited by or submitted to the City in a non-bid or otherwise non-competitive process.
 - (3) The disclosure requirement applies to pending disputes on other City and Agency contracts or projects that: (1) have resulted in a claim or lawsuit against the City of Oakland (2) could result in a new claim or new lawsuit against the City of Oakland or (3) could result in a cross-complaint or any other action to make the City of Oakland a party to an existing lawsuit. “Claim” includes, but is not limited to, a pending administrative claim or a claim or demand for additional compensation.
 - (4) Entities required to disclose under this Disclosure Policy include (1) any principal owner or partner, (2) any business entity with principal owners or partners that are owners or partners in a business entity, or any affiliate of such a business entity, that is involved in a pending dispute against the City of Oakland or Agency.
 - (5) Failure to timely disclose pending disputes required by this policy may result in (1) a determination that a bid is non-responsive and non-responsible for price-based awards, or (2) non-consideration of a bid or proposal for a professional service contract or other qualification-based award. The City may elect to terminate contracts with entities that failed to timely disclose pending disputes and/or initiate debarment proceedings against such entities.

9. Schedule M – (Independent Contractor Questionnaire, Part A). – Applies to all agreements and is part of the “Combined Contract Schedules”.

Prior to execution of this agreement and/or upon request, the contractor shall complete the Schedule M form and submit to the City. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (*see Combined Schedules*)

10. Schedule N - (LWO - Living Wage Ordinance) – Applies to Non-Construction agreements and is part of the “Combined Contract Schedules”.

- i. This Agreement is subject to the Oakland Living Wage Ordinance. The full details of the Living Wage Ordinance can be found on the City’s website (https://library.municode.com/HTML/16308/level2/TIT2ADPE_CH2.28LIWAO_R.html#TOPTITLE).
- ii. Prior to execution of this agreement and/or upon request the contractor shall complete the Schedule N form and submit to the City. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (*see Combined Schedules*)

11. Schedule N-1 - (EBO - Equal Benefits Ordinance) – Applies to Non-Construction agreements over \$25,000 and is part of the “Combined Contract Schedules”.

- i. This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.32 of the Oakland Municipal Code and its implementing regulations. The full details of the Equal Benefits Ordinance can be found on the City website at http://library.municode.com/HTML/16308/level2/TIT2ADPE_CH2.32EQBEOR.html#TOPTITLE.
- ii. Prior to execution of this agreement and/or upon request the contractor shall complete the Schedule N-1 form and submit to the City. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (*see Combined Schedules*)

12. Schedule O – (City of Oakland Campaign Contribution Limits Form) - Applies to all agreements and is a “stand alone Schedule”, and must be submitted with proposal.

- i. This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits Contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either one hundred and eighty (180) days after completion of, or termination of, contract negotiations. If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

- ii. The form is also available on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>

13. Schedule P – (Nuclear Free Zone Disclosure) - Applies to all agreements and is part of the “Combined Contract Schedules”.

- i. This agreement is subject to the Ordinance 11478 C.M.S. titled “An Ordinance Declaring the City of Oakland a Nuclear Free Zone and Regulating Nuclear Weapons Work and City Contracts with and Investment in Nuclear Weapons Makers”. The full details of the Ordinance 11478 C.M.S. can be found on our website at <https://www.oaklandca.gov/documents/contracting-policies-and-legislation>
- ii. Prior to execution of this agreement and/or upon request the contractor shall complete the Schedule P form and submit to the City. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (*see Combined Schedules*)

14. Schedule Q - (Insurance Requirements) - Applies to all agreements and is a “stand alone Schedule”, and evidence of insurance must be provided.

- i. This Agreement is subject to the attached hereto and incorporated herein as Schedule Q Insurance Requirements. Unless a written waiver is obtained from the City’s Risk Manager, Contractors must provide the insurance as found at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> Schedule Q.
- ii. A copy of the requirements is attached and incorporated herein by reference. Liability insurance shall be provided in accordance with the requirements specified.
- iii. When providing the insurance, include the Project Name and Project Number on the ACORD form in the section marked Description of Operations/Locations.
- iv. When providing the insurance, the “Certificate Holder” should be listed as: City of Oakland, Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612.

15. Schedule R – (Subcontractor, Supplier, Trucking Listing) – applies to Construction agreements only and is a “stand alone Schedule”.

- i. This Agreement is subject to the attached hereto and incorporated herein as Schedule R form. The form can also be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>.

REQUEST FOR PROPOSAL– PROPERTY MANAGER FOR THE FOX OAKLAND THEATER

- ii. For establishing level of certified local Oakland for profit and not for profit participation and calculating compliance with council’s 50% local participation policy.
- iii. In response to this Notice Inviting Bids (NIB) opportunity, the prime shall be a qualified for profit or not-for profit entity.
- iv. The contractor herewith must list all subcontractors and suppliers with values more than one-half of 1 percent of the prime contractor’s total bid or ten thousand dollars (\$10,000) whichever is greater regardless of tier and all trucking and dollar amount regardless of tier to be used on the project. The contractor agrees that no changes will be made in this list without the approval of the City of Oakland. Provide the address, type of work, dollar amount and check all boxes that apply. Bidders that do not list all subcontractors and suppliers with values greater than one half of one percent and all truckers regardless of tier and dollar amount shall be deemed non-responsive.
- v. Identify if contractors are certified MBE, WBE, Local Business Enterprises (LBE) and Small Local Business Enterprise (SLBE), Locally Produced Goods or Very Small Local Business Enterprise.

16. Schedule V – (Affidavit of Non-Disciplinary or Investigatory Action) - Applies to all agreements is part of the “Combined Contract Schedules”.

This Agreement is subject to the Schedule V - Affidavit of Non-Disciplinary or Investigatory Action. The form can be found on our website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules> (see Combined Schedules)

17. Schedule W – (Border Wall Prohibition)- Applies to all agreements and is a “stand alone Schedule”, and must be submitted with proposal.

This Agreement is subject to the Ordinance #13459 C.M.S. and its implementing regulations. The full details of the Border Wall Ordinance are located on the City website at <https://www.oaklandca.gov/documents/contracts-and-compliance-forms-and-schedules>

PLEASE NOTE: *By submitting an RFP to FOT the prospective primary participant’s authorized representative hereby obligates the proposer(s) to the stated conditions referenced in this document.*