

RESOLUTION NO. 132-2008

Adopted November 18, 2008

AUTHORIZING A SECOND AMENDMENT TO THE LOAN AGREEMENT WITH FOOD FOR SOUL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO CONSOLIDATE ITS EXISTING FOUR LOANS FOR TENANT IMPROVEMENTS, FAÇADE IMPROVEMENTS, AND BUSINESS ASSISTANCE INTO ONE LOAN WITH A COMBINED PRINCIPAL OF \$2,588,000, TO DEFER THE REPAYMENT OF THE CONSOLIDATED LOAN TO 2012, AND TO NULLIFY THE LOAN DOCUMENTS RELATED TO THREE OF THE FOUR LOANS, ALL ASSOCIATED WITH THE OPERATION OF THE 1300 ON FILLMORE RESTAURANT LOCATED AT 1300 FILLMORE STREET; WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2

BASIS FOR RESOLUTION

1. In May 2004, the Commission approved a Disposition and Development Agreement (the "DDA") with Fillmore Development Associates for the purchase and development of Agency Parcel 732-A in the Western Addition Redevelopment Project Area A-2 (the "Project Area"). The DDA has been amended four times. The project includes a Yoshi's jazz club and restaurant, a second restaurant/music lounge called "1300 on Fillmore," 80 for-sale condominium units, and a public parking garage (the "Project"). The Project was completed in November 2007 and has since become fully operational.
2. The Redevelopment Agency of the City and County of San Francisco (the "Agency") has invested more than \$21 million toward this approximately \$80 million economic revitalization Project, in the form of loans, grants, and deferred payments for the land value. Part of the Agency investment package as of October 2005 included a \$1.7 million loan to Food for Soul, LLC ("FFS") for the construction of the tenant improvements ("TI") for *1300 on Fillmore*. At that time, FFS estimated the TI to cost \$2.5 million. However, since then, the cost of the TI build-out has increased by approximately \$930,000 to a total of \$3.43 million. The cost increase is due to a number of factors, including the initial project budget developed in 2003, the general cost increases brought on by China's and India's demand for construction materials between 2004 and 2006, and the tight timeline to complete construction before the restaurant's grand opening in November 2007.
3. In April 2007, at FFS's request, the Agency provided \$350,000, under its Revised Fillmore Revolving Loan Program, to cover part of this cost increase. FFS's search for private loans to cover the rest of the cost increase was unsuccessful. In May 2008, at FFS's request, the Agency increased its loan to FFS by \$538,000 for a total of \$2.588 million to cover the balance of the TI cost increase and avoid subcontractors' lien problems. FFS has invested a total of \$852,000 into the TI.

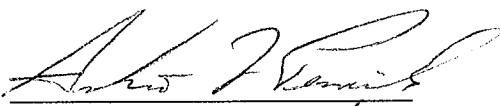
4. FFS currently has four loans with the Agency: (1) the existing \$2.238 million loan (the "Larger Loan") of which (a) the \$1.7 million was approved in October 2005 and (b) \$538,000 approved in May 2008; and (2) the existing \$350,000 approved in April 2007, which consists of three smaller loans: (a) a \$35,000 façade improvement loan, (b) a \$240,000 tenant improvement loan, and (c) a \$75,000 business assistance loan (collectively, the "Smaller Loans"). The Larger Loan is secured with a promissory note, a recorded leasehold deed of trust, a security agreement, loan guaranties, and UCC-1 Financing Statement. It carries a fixed interest rate of 3.25% per year that began accruing on October 25, 2007, the date FFS opened. Its repayment schedule includes no payments due until 2012; quarterly payments thereafter at 75% of the restaurant's net income until the loan is fully repaid; and a term of 20 years. Each of the Smaller Loans is secured by their own individual and separate promissory note, a security agreement, and a recorded deed of trust. The terms of the loans vary from five years to 15 years; the interest rate for each loan was set at 3.25%; and each has a loan repayment start date of October 1, 2008.
5. Recently, FFS informed the Agency that it is about to exhaust its limited working capital. Most of its equity capital reserved for working capital has been spent on increased TI cost; hence, it has little left for its operations. It has not been able to raise the additional working capital needed to buttress its operations because private lenders it has approached for loans, including Wells Fargo Bank, Union Bank, and a few other banks are unwilling to lend at this time. FFS requested \$200,000 from the Mayor's Office of Community Investment, but received \$50,000.
6. FFS indicated also that as of late October 2008, it has little or no working capital, and has unpaid expenses for TI. As such, it is in need of urgent financial assistance to pay off accrued current liabilities and a reserve to sustain its operations through the current economic difficulties. FFS, therefore, has requested the Agency consolidate its existing four loans spent on TI, and defer the consolidated loan repayment to 2012 so that available operation cash flow can be devoted to working capital and not debt-service to the Agency.
7. The Agency has review FFS's request in light of the current difficult economic climate and the need to protect the Agency's significant investment in the Project. The Agency is proposing to fund a portion of this emergency request because of the limited funds available in the current Project Area budget and the need for FFS to further streamline its operations. The proposed second amendment to the loan agreement (the "Second Amendment") will consolidate the existing four loans into one with a combined principal of \$2,588,000, defer the repayment of the consolidated loan to October 26, 2012, and nullify the loan documents related to the Smaller Loans which have been consolidated. The \$2.588 million consolidated loan will carry 3.25% simple interest, a term of 20 years from October 25, 2007 when the *1300 on Fillmore* opened, and its repayment will start on October 26, 2012.

8. The promissory note and the security agreement related to the Smaller Loans are to be cancelled since they are no longer needed. The Smaller Loans respective deeds of trust are to be reconveyed accordingly.
9. Agency Commission authorization of the proposed Second Amendment with FFS will facilitate consolidation of four existing loans into one loan that allows for repayment of the consolidated loan amount over an extended period of time. The majority of the loan amount was for completing tenant and façade improvements, which are activities that are alterations to an existing facility that would have no resultant significant environmental impacts and are categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301(a). The provision of business assistance funds facilitated the start up of the business which would not have directly caused any significant physical effect on the environment and is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3). Approval of the proposed Second Amendment will provide extended repayment terms to the loan agreement in order to facilitate the continued operation of the *1300 on Fillmore* business, such that the consolidated loan amount can be repaid over time. This action will not lead to additional changes to the environment and will not cause any significant physical effects on the environment, and is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).
10. Agency staff recommends approval of the Second Amendment with FFS to consolidate the existing four loans into one as described herein.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to enter into a Second Amendment to the Loan Agreement with Food for Soul, LLC, a California limited liability company, to consolidate its existing four loans for tenant improvements, façade improvements, and business assistance into one loan with a combined principal of \$2,588,000, to defer the repayment of the consolidated loan to October 26, 2012, and to nullify the loan documents related to three of the four loans, all associated with the operation of the *1300 on Fillmore* restaurant located at 1300 Fillmore Street in the Western Addition Redevelopment Project Area A-2, substantially in the form lodged with the Agency General Counsel, and to enter into any and all ancillary documents or take any additional actions necessary to consummate the transaction.

APPROVED AS TO FORM:


James B. Morales 11/14/08
Agency General Counsel