

RESOLUTION NO. 153-2008

Adopted as amended December 16, 2008

AUTHORIZING A SECOND AMENDMENT TO THE LOAN AGREEMENT WITH YOSHI'S SAN FRANCISCO, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO MODIFY THE LOAN TERMS AND INCREASE THE LOAN AMOUNT BY \$1,500,000, SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF THE AGENCY'S BUDGET AMENDMENT, FOR A TOTAL AGGREGATE AMOUNT NOT TO EXCEED \$7,200,000 FOR TENANT IMPROVEMENT COSTS ASSOCIATED WITH ESTABLISHING A JAZZ CLUB/RESTAURANT AT 1330 FILLMORE STREET; WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2

BASIS FOR RESOLUTION

1. In October 2005, Yoshi's San Francisco, LLC ("Yoshi's") estimated its tenant improvement cost to be \$7.4 million dollars. This cost was to be funded with the Redevelopment Agency of the City and County of San Francisco's ("Agency") \$4.4 million dollar tenant improvement loan and \$3 million dollars from Yoshi's and its private equity investors. Due to a number of factors, including cost overruns, Yoshi's costs increased significantly to \$15 million dollars – an increase of \$7.6 million dollars – by the time construction was completed in November 2007.
2. At Yoshi's request, on May 20, 2008 by Resolution No. 45-2008, the Agency Commission authorized a first amendment to the loan agreement to increase the Agency's loan amount by \$1.3 million dollars for a total aggregate amount not to exceed \$5.7 million dollars to fund part of the cost overruns. Yoshi's and its investor were to cover the \$6.3 million dollars balance of the overruns. However, Yoshi's was unable to obtain financing to pay \$1.5 million dollars to pay some of its subcontractors for tenant improvement construction work. To buy time to raise the remaining \$1.5 million dollars, Yoshi's entered into settlement agreements with the subcontractors to delay legal action on mechanics' lien claims filed by the general contractor and some of the subcontractors.
3. Yoshi's search for a \$1.5 million dollar bank loan is taking longer than it had expected due to the current economic crisis. The banks are simply non-responsive. To avert problems with the subcontractors, it is requesting the Agency to provide the needed fund through an increased loan.
4. On December 9, 2008, by Resolution No. 146-2008, the Commission approved an amended Fillmore Jazz Preservation District ("District") Revolving Loan Program ("Amended Loan Program") to increase the maximum loan amounts for non-forgivable Façade Improvement Loans, Tenant Improvement Loans and Business Loans and add certain provisions that allow for existing and new loans to be

restructured on an as needed basis, upon a showing of good cause. The Amended Loan Program allows the Agency to consider restructuring loans made to borrowers who need such restructuring to strengthen their business operations and to safeguard the Agency's investments related to the loans. The Commission requires Agency staff to undertake a due diligence review of the loan to be restructured to determine how the restructuring (which may include an increase to loan amounts) would impact the viability of the business funded and what steps the business is taking to improve its operations.

5. In following the Commission's direction, Agency staff analyzed Yoshi's 2008 performance and the steps its taking to improve its operations. During 2008, Yoshi's received favorable reviews from the general public, including the San Francisco Chronicle. However, Yoshi's was challenged with weakened capital structure and declining revenue brought on by the current economic crisis. According to records provided by Yoshi's based on actual data from its operations between January and October 2008, its projections for 2008 includes \$11.251 million in gross revenues, \$10.686 million in operating expenses, and \$565,639 in positive cash flow before debt-service. With \$818,351 in debt service, it projects \$252,712 deficit for 2008. Given the steps it is taking to improve its operations, Yoshi's fourth quarter cash flow after debt service is a positive \$168,945. Its 2008 deficit is due to declining revenues, debt service burden from private loans taken to cover construction cost overruns.
6. Agency staff has held discussions in recent weeks with Yoshi's about the steps its taking to control operating expenses and increase revenues and profit. Yoshi's is streamlining its operations and controlling costs to increase revenues by improving its marketing efforts, launching new events, programs, and promotions to increase revenue. Based on these steps and in light of the current economic climate, Yoshi's is expecting a profit of about \$549,176 in 2009 based on projected total revenues of \$10.949 million and total expenses of \$9.569 million.
7. The existing Agency/Yoshi's loan agreement as amended under the first amendment carries a fixed interest rate of 3.25% per year and a 20-year term. Interest started accruing on November 28, 2007, the date Yoshi's opened and quarterly payments of the accrued interest was set to begin June 1, 2008 and quarterly thereafter until December 2012 when principal and interest must be paid with 20% of its net income until the equity investors have received a 10% return on their equity contribution; then quarterly payments will be 75% of its net income until the loan is fully repaid.
8. Under the proposed second amendment ("Second Amendment"), all of the above terms would remain the same except for the following:
 - The loan amount would increase by \$1.5 million dollars for a total aggregate amount not to exceed \$7.2 million dollars.

- Funds from the loan increase are only for paying off the existing outstanding tenant improvement cost as stated in the mechanic's liens and settlement agreements. Payments will be made directly to the general contractor and subcontractors.
 - Loan interest will not accrue until November 29, 2012 and will accrue at 3.25% simple interest, no compounding.
 - The accrued interest to date (about \$108,000) on the existing loan will be waived.
 - Quarterly principal and interest repayment will start on January 1, 2013 and continue thereafter until the loan is repaid.
 - Yoshi's shall work with an Agency-approved restaurant consultant who will set operation benchmarks for Yoshi's with the aim of improving its operations, grow its revenue, and help it succeed.
 - Yoshi's to provide to the Agency quarterly business operation reports for the next 24 months showing operating revenues, expenses, and profit (or loss) and the steps being taken to further improve its operations. For the first 12 months, the restaurant consultant will supplement the quarterly reports with opinions of their own to the Agency.
 - The loan increase will be secured under the existing security instruments of the existing loan agreement, and a notice of additional loan under a leasehold deed of trust will be recorded for the new loan increase.
8. Disbursement of funds pursuant to the proposed Second Amendment with Yoshi's is subject to the Board of Supervisors' approval of the Agency's budget amendment that the Commission adopted by Resolution No. 145-2008 (Dec. 9, 2008) and that reprograms funds for the Western Addition Redevelopment Project Area A-2 budget.
 9. Agency authorization of the proposed Second Amendment with Yoshi's to facilitate the completion of tenant improvements in the existing building on Agency Parcel 732-A is a proposed change to an existing facility, which is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301(a). The proposed action will not cause a significant physical effect on the environment.
 10. Agency staff recommends approval of the Second Amendment with Yoshi's to modify the terms and increase the loan amount 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, subject to the Board of Supervisors' approval of the Agency's budget amendment, to enter into a Second Amendment to the Loan Agreement with Yoshi's San Francisco, LLC, a California limited liability company, to modify the loan terms (as set forth above) and to increase the loan amount by \$1,500,000, for a total aggregate amount not to exceed \$7,200,000 for tenant improvement costs associated with establishing a jazz club/restaurant at 1330 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:


for James B. Morales 12/18/08
Agency General Counsel