




Office of the City Manager

CONSENT CALENDAR  
November 6, 2007

To:  Honorable Mayor and Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Dan Marks, Director, Planning and Development Department

Subject: Fee Deferral and Modification of Loan Agreement for Freight and Salvage

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend the existing loan agreement with Berkeley Society for the Preservation of Traditional Music to increase the loan amount by up to \$350,000 to pay for City building permit fees for the Society's new venue at 2020-2026 Addison Street and to modify the loan terms to allow forgiveness of \$77,000 of the original loan principal when the Society receives a Certificate of Occupancy for its new building at 2020-26 Addison.

FISCAL IMPACTS OF RECOMMENDATION

Deferral of receipt of up to \$350,000 in City building permit fees.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley Society for the Preservation of Traditional Music (also known as the Freight and Salvage Coffee House or the "Freight") is ready to apply for permits for construction of its new venue on Addison Street in the Downtown Arts District. They have requested that the City assist their project by deferring payment of all building permit and related fees.

On September 16, 2007, the City Council requested that the City Manager defer permit fees for the project, to be paid upon completion of the project or a mutually agreed upon schedule. The applicant concurs with the proposed repayment schedule described below.

BACKGROUND

On April 8, 2000, the City made a \$527,000 loan to the Berkeley Society for the Preservation of Traditional Music. The loan provided a part of the financing for the purchase of the property at 2020-2026 Addison Street. The terms of the loan required payments of principal every six months over five years, totaling \$450,000. The remaining \$77,000 balance of the loan and all accrued interest were to be forgiven if the Society repaid the \$450,000 principal and obtained a final City building inspection by April 19, 2005.

On July 15, 2003, the City Council approved an extension to the repayment terms for the loan by two years to April 19, 2007 and modified the principal repayment schedule. The Society made the required \$450,000 of principal payments on the loan, but was unable to meet its original schedule and complete construction by April 19, 2007.

The Society was successful in raising the money required to construct its new building. However, it does not have sufficient funds to repay the remaining \$77,000 of the original loan or pay all City permit fees. Therefore the Society has requested deferral of the permit fees, estimated between \$250,000 - \$350,000. The Society has also requested extension of the deadline for completing construction and forgiveness of the \$77,000 balance of the original loan.

The loan will continue to bear interest at 5% per annum. The payment schedule will be extended to require that the deferred permit fees be repaid in equal annual installments over five years. The first payment will be due six months from occupancy, with subsequent payments due annually on the anniversary of the date of issuance of the certificate of occupancy. If the deferred permit fees are fully repaid in five years from issuance of the certificate of occupancy for the Society's new building, all outstanding interest and \$77,000 of the original loan to the Society shall be forgiven.

#### RATIONALE FOR RECOMMENDATION

Since the Society has an outstanding loan from the City, the best way to accomplish deferral of the permit fees is to add them to the principal balance of the City's loan as they are incurred. The fees would then be repaid over five years with interest on them accruing at 5% per annum. The loan is secured by a second deed of trust on the property at 2020-2026 Addison, providing additional security for payment of the fees.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff considered not allowing deferral of the permit fees. However, that would delay the start of construction of this important project, which will be a major and welcome addition to the Downtown Arts District.

#### CONTACT PERSON

Wendy Cosin, Deputy Planning Director, Planning Department, 981-7402

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.  
FEE DEFERRAL AND MODIFICATION OF LOAN AGREEMENT FOR THE  
BERKELEY SOCIETY FOR THE PRESERVATION OF TRADITIONAL MUSIC  
(FREIGHT AND SALVAGE)

WHEREAS, on April 8, 2000 the City made a \$527,000 loan to The Berkeley Society for the Preservation of Traditional Music ("Society") for the purchase of the property at 2020-2026 Addison Street; and

WHEREAS, the loan required that the loan be repaid by April 19, 2007, with all accrued interest and \$77,000 of principal to be forgiven if the Society repaid \$450,000 of principal and obtained final City approval of construction of its new building by that date; and

WHEREAS, the Society is now ready to apply for permits for its new building and has requested deferral of payment of City permit fees and extension of the deadline for completion of construction and forgiveness of the remaining \$77,000 balance of its loan.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager amend the existing loan agreement with Berkeley Society for the Preservation of Traditional Music to increase the loan amount by up to \$350,000 to pay for City permit fees for the Society's new venue at 2020-2026 Addison Street and to modify the loan terms to allow forgiveness of \$77,000 of the original loan principal when the Society receives final building inspection approval for its new building at 2020-26 Addition. The loan will continue to bear interest at 5% per annum. The payment schedule will be extended to require that the deferred permit fees be repaid in equal annual installments over five years. If the deferred permit fees are fully repaid five years from issuance of the certificate of occupancy for the Society's new building, all outstanding interest and \$77,000 of the original loan to the Society shall be forgiven.

