

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

04 JUN 23 AM 10:58

RESOLUTION No. 78658 C.M.S.

REVISED

REVISED
6-22-04

RESOLUTION AUTHORIZING AN AMENDMENT TO THE AGREEMENT BETWEEN CHILDREN'S FAIRYLAND, INC. ("NON-PROFIT") AND THE CITY OF OAKLAND TO DESIGNATE THE NON-PROFIT AS CITY'S REPRESENTATIVE FOR THE PURPOSE OF DESIGN AND CONSTRUCTION OF IMPROVEMENTS, TO REQUIRE COMPLIANCE WITH THE CITY'S CURRENT CONTRACTING PROGRAMS, AND TO ADD INDEMNIFICATION LANGUAGE

WHEREAS, the City and Non-Profit are currently parties to an Agreement for the maintenance and operation of the facility that will expire July 6, 2004; and

WHEREAS, the City is currently in negotiations with the Non-Profit to execute a 15-year Agreement for the continued operation and management of the facility; and

WHEREAS, the Non-Profit desires to proceed with Measure DD funded design and construction of improvements at the facility; and

WHEREAS, in order for the Non-Profit to timely complete the improvements, an amendment to the current Agreement is required to designate the Non-Profit as the City's representative for purposes of complying with applicable state licensing laws; now therefore be it

RESOLVED: That the City Council authorizes an amendment to the existing Agreement between the City and the Non-Profit to designate the Non-Profit as a representative for the sole purpose of proceeding with Measure DD funded design and construction of improvements to the facility, and be it

FURTHER RESOLVED: That the City Council authorizes an amendment to the existing Agreement between the City and the Non-Profit requiring the Non-Profit to ensure that its contractors and subcontractors comply with current City contracting programs; and be it

FURTHER RESOLVED: That the City Council authorizes an amendment to the existing Agreement between the City and the Non-Profit to specify that, the Non-Profit agrees to protect, defend (including any third party lawsuits), indemnify, and hold harmless City, its Council Members, officers, agents, and employees from any and all claims, demands, actions or damages arising out of the performance of this Agreement by Non-Profit, its contractors, and their respective subcontractors, vendors, guests, and invitees to which City may be subjected, except for those

claims, demands, actions or damages resulting from the sole negligence or willful misconduct of City, its Council Members, officers, agents and employees; and be it

FURTHER RESOLVED: That the authorized amendment to the existing Agreement between the City and the Non-Profit shall terminate on December 31, 2004, unless the City Administrator based on her sole judgment and discretion, extends the term of the amendment in writing; and be it

FURTHER RESOLVED: That a copy of this resolution has been approved by the Office of the City Attorney and a copy will be on file at the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 6 2004, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, WAN, CHANG, QUAN, BROOKS, REID, CHANG, AND PRESIDENT DE LA FUENTE, -8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



CEDA FLOYD

City Clerk and Clerk of the Council
of the City of **kland, California

L. Gordon

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

04 JUN 10 PM 2:07

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING AN AMENDMENT TO THE AGREEMENT BETWEEN CHILDREN'S FAIRYLAND, INC. ("NON-PROFIT") AND THE CITY OF OAKLAND TO DESIGNATE THE NON-PROFIT AS CITY'S REPRESENTATIVE FOR THE PURPOSE OF DESIGN AND CONSTRUCTION OF IMPROVEMENTS

WHEREAS, the City and Non-Profit are currently parties to an Agreement for the maintenance and operation of the facility that will expire July 6, 2004; and

WHEREAS, the City is currently in negotiations with the Non-Profit to execute a 15-year Agreement for the continued operation and management of the facility; and

WHEREAS, the Non-Profit desires to proceed with Measure DD funded design and construction of improvements at the facility; and

WHEREAS, in order for the Non-Profit to timely complete the improvements, an amendment to the current Agreement is required to designate the Non-Profit as the City's representative for purposes of complying with applicable state licensing laws; now therefore be it

RESOLVED: That the City Council authorizes an amendment to the existing Agreement between the City and the Non-Profit to designate, until December 31, 2004, the Non-Profit as a representative of the City for the sole purpose of Measure DD funded design and construction of improvements to the facility.

FURTHER RESOLVED: That the City Council authorizes an amendment to the existing Agreement between the City and the Non-Profit to specify that, the Non-Profit agrees to protect, defend (including any third party lawsuits), indemnify, and hold harmless City, its Council Members, officers, agents, and employees from any and all claims, demands, actions or damages arising out of the performance of this Agreement by Non-Profit, its contractors, and their respective subcontractors, vendors, guests, and invitees to which City may be subjected, except for those claims, demands, actions or damages resulting from the sole negligence or willful misconduct of City, its Council Members, officers, agents and employees.

FURTHER RESOLVED: That a copy of this resolution has been approved by the Office of the City Attorney and a copy will be on file at the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, WAN, CHANG, QUAN, BROOKS, REID, CHANG, AND PRESIDENT
DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of **kland, California

