

INTRODUCED BY COUNCILMEMBERS SHENG THAO AND LOREN TAYLOR


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE THAT AUTHORIZES THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE A MASTER DISSOLUTION AGREEMENT AND RELATED DOCUMENTS BETWEEN THE CITY OF OAKLAND (CITY), OAKLAND UNIFIED SCHOOL DISTRICT (OUSD), CHABOT SPACE & SCIENCE CENTER JOINT POWERS AGENCY (JPA), CHABOT SPACE & SCIENCE CENTER FOUNDATION (FOUNDATION), EAST BAY REGIONAL PARK DISTRICT (EBRPD), AND EASTBAY ASTRONOMICAL SOCIETY (EAS) RELATED TO THE CHABOT SPACE & SCIENCE CENTER (CHABOT) LOCATED AT 10000 SKYLINE BOULEVARD (SKYLINE BOULEVARD PROPERTY) TO:

- (A) DISSOLVE THE JPA AND TERMINATE THE JPA AGREEMENT;**
- (B) TERMINATE THE EXISTING CITY-JPA GROUND LEASE OF THE SKYLINE BOULEVARD PROPERTY AND RELATED AGREEMENTS;**
- (C) TERMINATE AND RELEASE THE EXISTING LEASE-LEASEBACK AGREEMENTS TO FULLY DISCHARGE APPROXIMATELY \$6.5 MILLION DEBT OWED BY THE JPA TO OUSD;**
- (D) ASSUME OWNERSHIP, BY THE CITY, OF THE CHABOT BUILDINGS LOCATED ON THE SKYLINE BOULEVARD PROPERTY AND TRANSFER ALL REMAINING ASSETS AND LIABILITIES OF THE JPA TO THE FOUNDATION;**
- (E) EXECUTE A THIRTY-FOUR YEAR AND ELEVEN MONTH LEASE OF THE SKYLINE BOULEVARD PROPERTY BETWEEN THE CITY AND THE FOUNDATION FOR ONE DOLLAR (\$1) PER YEAR; AND**
- (F) GRANT AN ACCESS EASEMENT OVER THE SKYLINE BOULEVARD PROPERTY TO EBRPD FOR ACCESS TO AND FROM SKYLINE BOULEVARD AND THE PARKING GARAGE LOCATED ON EBRPD-OWNED PROPERTY ADJACENT TO THE SKYLINE BOULEVARD PROPERTY**

WHEREAS, effective April 20, 1883, the City Council of the City of Oakland (City) adopted City Ordinance No. 922, authorizing Anthony Chabot to build and construct an astronomical observatory, and an equatorially mounted telescope of eight inch aperture erected and placed within the observatory, on Lafayette Square within the City and known as the “Oakland Observatory”, provided that title to the telescope and observatory shall absolutely vest in the Board of Education of the City, in trust for the City, for the use, benefit and enjoyment of the Public School Department and the public, free and without charge or expense; and

WHEREAS, in 1915, due to increasing light pollution and urban congestion, the Oakland Observatory was moved to City-owned property located at 4919 Mountain Boulevard (Mountain Boulevard Property), and. in the mid-1960s, it was renamed the “Chabot Science Center”, and was staffed mainly by OUSD personnel and volunteers, including EAS officers and volunteers; and

WHEREAS, in May 1989, OUSD, the City, and EBRPD, in collaboration with EAS, entered into a Joint Powers Agreement (JPA Agreement) to form the Chabot Space & Science Center Joint Powers Agency (JPA) for the purpose of developing and operating an educational institution to benefit school children, teachers, and the general public through the pursuit and practice of quality science education; and

WHEREAS, the JPA formed the Foundation to, among other matters, undertake fundraising activities to help fund the operations and activities of the JPA; and

WHEREAS, in February 1994, the City and the JPA entered into a long-term ground lease (Skyline Ground Lease) for approximately 9 acres of City-owned property located at 10000 Skyline Boulevard (Skyline Boulevard Property) for a term of 66 years, or through 2060, at one dollar (\$1) per year for the purpose of developing the Chabot Space & Science Center (Chabot) on the site; and

WHEREAS, in July 1999, OUSD issued a Certificate of Participation loan (Loan) to the JPA in the amount of \$10,265,000 for capital improvements to construct Chabot based on projected revenue assumptions that never materialized, and the JPA was unable to repay the Loan; and

WHEREAS, in November 2010, OUSD and the JPA agreed to restructure the Loan through a lease/lease-back agreement (Lease/Lease-Back) pursuant to which the JPA leased Chabot to OUSD for one dollar (\$1) per year, and OUSD leased Chabot back to the JPA for \$450,000 per year through September 2049, or until the remaining principal balance (\$8,258,281) is paid in full; and

WHEREAS, in 2014, the lease payments were restructured again and lowered to \$100,000 per year; and

WHEREAS, despite the restructuring, the JPA has been unable to make the obligated payments and approximately \$6.5 million of the original debt remains outstanding. Lease payments have been as much as ten percent of Chabot’s operating budget and the payments have eroded Chabot's financial viability; and

WHEREAS, OUSD has agreed to forgive the entirety of the JPA's debt obligations, in exchange for a sixty (60) year lease of City-owned property, comprised of approximately 11.34 acres located at 4919 Mountain Boulevard (Mountain Boulevard Property); and

WHEREAS, OUSD, the City, EBRPD, JPA and the Foundation seek to have Foundation assume the JPA's responsibility for operating and funding Chabot; and

WHEREAS, to enable Foundation to operate and fund Chabot, OUSD, the City and EBRPD seek to transfer all remaining assets and liabilities of the JPA to Foundation; and

WHEREAS, to enable Foundation to operate Chabot, the City, Foundation and the JPA seek to terminate the Skyline Boulevard Lease and related agreements and replace it with a new long-term lease of the Skyline Boulevard Property between the City and the Foundation for one dollar (\$1) per year; and

WHEREAS, OUSD, the City and EBRPD seek to dissolve the JPA and terminate the JPA Agreement; and

WHEREAS, public vehicular access to and from Skyline Boulevard and the parking garage located on EBRPD-owned property adjacent to the Skyline Boulevard Property is across the Skyline Boulevard Property however, an easement for such access was not granted when the garage was constructed; and

WHEREAS, in 2009, voters passed Measure C by a supermajority creating a 3 percent Transient Occupancy Tax surcharge and directing 12.5 percent of receipts to Chabot (Measure C Funds), and the City seeks to redirect these Measure C Funds from JPA to Foundation so that there shall be no interruption in voters' intent that this surcharge support Chabot; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds that it is in the best interests of the City to execute a Master Dissolution and Transfer Agreement between the City, the JPA, the Foundation, OUSD, EBRPD, and EAS (Master Dissolution Agreement) to dissolve the JPA, transition management and operations of Chabot to the Foundation, enter into a lease with the Foundation of Chabot and the Skyline Boulevard Property, grant an access easement to EBRPD, and execute all related documents to resolve long-standing issues threatening the viability of the Chabot Space & Science Center.

SECTION 2. The City Council hereby authorizes the City Administrator or designee, to negotiate and execute the Master Dissolution Agreement and related documents between the City, OUSD, JPA, Foundation, EBRPD related to Chabot, the Skyline Boulevard Property, and the Mountain Boulevard Property to:

- (I) Dissolve the JPA and terminate the JPA Agreement; and
- (II) Terminate the City-JPA Ground Lease of the Skyline Property and all related documents; and

- (III) Terminate and release the Lease-Leaseback Agreements to fully discharge all JPA debt owed to OUSD; and
- (IV) Assume ownership of the Chabot buildings by the City and transfer all remaining assets and liabilities of the JPA to the Foundation; and
- (V) Execute a thirty-four (34) year and eleven (11) month lease of Chabot and the Skyline Boulevard Property between the City and the Foundation for one dollar (\$1) per year; and
- (VI) Grant an access easement to EBRPD over the Skyline Boulevard Property for access to and from Skyline Boulevard and the parking garage located on adjacent EBRPD-owned property.

SECTION 3. The City Council hereby authorizes the City Administrator or designee, without returning to the City Council, to negotiate and execute (a) such other additions, amendments or other modifications to the foregoing documents that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions contemplated by this Ordinance, to be conclusively evidenced by the execution and delivery by the City Administrator of any such amendments; and (b) such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate the implementation of the Master Dissolution Agreement to consummate the transactions in accordance with this Ordinance, including redirecting Measure C Funds from the JPA to the Foundation, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

SECTION 4. All lease payments owed by Foundation to the City shall be received in General Purpose Fund (1010), Real Estate Organization (85231), Miscellaneous Land Rental Account (44219), EWDD Administrative Project (1000019), Real Estate Program (PS32).

SECTION 5. The City Council has independently reviewed and considered this environmental determination, and the Council finds and determines that this action complies with the California Environmental Quality Act (CEQA) because this action on the part of the City is exempt, each as a separate and independent basis, from CEQA pursuant to Section 15301 (existing facilities), Section 15061(b)3) (no possibility of significant effect on the environment), and/or Section 15183 (projects consistent with General Plan/Zoning) of the CEQA guidelines.

SECTION 6. The recital contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES -FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO
AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

ASHA REED

Acting City Clerk and Clerk of the Council of the City of
Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE THAT AUTHORIZES THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE A MASTER DISSOLUTION AGREEMENT AND RELATED DOCUMENTS BETWEEN THE CITY OF OAKLAND (CITY), OAKLAND UNIFIED SCHOOL DISTRICT (OUSD), CHABOT SPACE & SCIENCE CENTER JOINT POWERS AGENCY (JPA), CHABOT SPACE & SCIENCE CENTER FOUNDATION (FOUNDATION), EAST BAY REGIONAL PARK DISTRICT (EBRPD), AND EASTBAY ASTRONOMICAL SOCIETY (EAS) RELATED TO THE CHABOT SPACE & SCIENCE CENTER (CHABOT) LOCATED AT 10000SKYLINE BOULEVARD (SKYLINE BOULEVARD PROPERTY) TO:

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- (B) TERMINATE THE EXISTING CITY-JPA GROUND LEASE OF THE SKYLINE BOULEVARD PROPERTY AND RELATED AGREEMENTS;**
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This Ordinance authorizes the City Administrator or designee to negotiate and execute a Master Dissolution and Transfer Agreement and related documents between the City, OUSD, the JPA, the Foundation, EBRPD, and EAS related to the Chabot Space & Science Center (Chabot) located at 10000 Skyline Boulevard (the Skyline Boulevard Property) to:

- (I) Dissolve the JPA and terminate the JPA Agreement;
- (II) Terminate the City-JPA Ground Lease of the Skyline Property and all related documents;
- (III) Terminate and release the Lease-Leaseback Agreements to fully discharge all debt owed by the JPA to OUSD;

- (IV) Assume ownership, by the City, of the Chabot buildings located on the Skyline Boulevard Property and transfer all remaining assets and liabilities of the JPA to the Foundation;
- (V) Execute a thirty-four year and eleven month lease of the Skyline Boulevard Property between the City and the Foundation for one dollar (\$1) per year; and
- (VI) Grant an access easement over the Skyline Boulevard Property to EBRPD for access to and from Skyline Boulevard and the parking garage located on EBRPD-owned property adjacent to the Skyline Boulevard Property.