



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Alexa Jeffress
Director, Economic and
Workforce Development

SUBJECT: Chabot Space & Science Center and
OUSD Lease

DATE: December 9, 2020

City Administrator Approval 

Date: December 10, 2020

RECOMMENDATION

Staff Recommends The City Council Adopt The Following Pieces Of Legislation For Real Property Located At 4919 Mountain Boulevard (Mountain Boulevard Property) And At 10000 Skyline Boulevard (Skyline Boulevard Property):

(1) An Ordinance That Authorizes The City Administrator Or Designee To Negotiate And Execute A Master Dissolution And Transfer Agreement and Related Documents Between 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 (EBPRD), And Eastbay Astronomical Society (EAS) Related To The Chabot Space & Science Center (Chabot) Located At the 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 (Skyline Boulevard Lease); And**
- (F) Grant An Access Easement Over The Skyline Boulevard Property To EBPRD For Access To and From Skyline Boulevard And The Parking Garage Located On EBPRD-Owned Property Adjacent To The Skyline Boulevard Property; And**

City Council
December 15, 2020

(2) An Ordinance That Authorizes The City Administrator Or Designee To Negotiate And Execute A Sixty Year Lease, And Related Documents, With The Oakland Unified School District (OUSD), As Tenant, Of The Real Property Located At 4919 Mountain Boulevard For OUSD's Discharge Of The Chabot Space & Science Center Joint Powers Agency Debt Of Approximately \$6.5 Million To OUSD And Payment Of Rent To The City , As Landlord, Of One Dollar (\$1) Per Year And Related Documents; And

(3) A Resolution Awarding A Ten Year Grant Agreement To Support The Mission and Programs Of The Foundation, Payable In Annual Amounts Of Two Hundred Seventy Three Thousand One Hundred And Five Dollars (\$273,105), Subject To Funding Availability.

EXECUTIVE SUMMARY

Staff recommends that the City Council approve two ordinances authorizing a series of actions that would resolve long-standing issues threatening the viability of the Chabot Space & Science Center (Chabot), located on City-owned property at 10000 Skyline Boulevard (Skyline Boulevard Property).

Chabot is operated by the Chabot Joint Powers Agency (JPA), which was formed by the City, East Bay Regional Park District (EBRPD) and Oakland Unified School District (OUSD). The Chabot facilities were constructed by the JPA and financed by OUSD with an approximately \$10.25 million loan, which the JPA has been unable to service despite multiple loan restructurings. The current outstanding loan balance is approximately \$6.5 million.

Under the terms of the proposed agreements, OUSD will forgive the entirety of the JPA's debt in exchange for a long-term lease of an approximately 11-acre City-owned property at 4919 Mountain Boulevard (Mountain Boulevard Property) to continue operating an existing Community Day School that OUSD been operating on the site since at least 1995. The parties will also dissolve the JPA and transfer management of Chabot to the Chabot Space & Science Center Foundation (Foundation). This will simplify and improve the management and governance of Chabot; enable the Foundation to more effectively fundraise for Chabot; and relieve the City, OUSD, and EBRPD of all liabilities, if any, arising from their association with the JPA.

The City has historically supported Chabot by (1) leasing the Skyline Boulevard Property to the JPA for one dollar (\$1) per year, (2) funding Chabot with tax proceeds derived from Measure C, as approved by voters in 2009, (3) granting approximately \$273,105 to Chabot annually from the General Purpose Fund, and (4) providing a minimal level of vegetation management and road maintenance on the site. Staff recommends that the City continue this level of support.

To effectuate these objectives, staff recommends that City Council approve legislation authorizing negotiation and execution of (1) the Master Dissolution and Transfer Agreement substantially in the form attached hereto as **Attachment A**, which governs many of the actions described above as well as the related long-term lease of the Skyline Boulevard Property to the Foundation and an access easement for EBRPD through the Skyline Boulevard Property, (2) the long-term lease of the Mountain Boulevard Property to OUSD substantially in the form attached hereto as **Attachment B**, and (3) a ten-year grant agreement to provide for ongoing annual grants to the Foundation from the City's General Purpose Fund at current and historic levels, subject to the availability of funds as appropriated by City Council in each biennial budget.

BACKGROUND / LEGISLATIVE HISTORY

The Chabot Space & Science Center

Chabot is an approximately 86,000 square foot award-winning facility featuring hands-on science and astronomy exhibits, a state-of-the-art planetarium, a large-format domed screen theater, a simulated space mission experience, and the largest telescopes available for public use in California. Chabot is located on the City-owned Skyline Boulevard Property, which is comprised of approximately 9 acres of Joaquin Miller Park, located at 10000 Skyline Boulevard, as depicted on **Attachment C** attached hereto.

Chabot is operated by the JPA, which was formed by OUSD, the City, and EBRPD. In May 1989, the parties entered into a Joint Powers Agreement to form the JPA for the purpose of developing an educational institution to benefit school children, teachers, and the general public through the pursuit and practice of quality science education. Pursuant to the JPA agreement, Chabot was created to serve as a local, regional and national resource to supplement and enrich learners' understanding of astronomy, earth and environmental sciences by providing facilities that are not otherwise available in the classroom.

In February 1994, the City and the JPA entered into a long-term ground lease (Skyline Ground Lease) for the Skyline Boulevard Property. Under the terms of the Skyline Ground Lease, the City agreed to lease the Skyline Boulevard Property to the JPA for a term of 66 years, or through 2060, for one dollar (\$1) per year for the purpose of developing Chabot's present-day facility on the site.

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. The Loan was based on projected revenue assumptions that never materialized, and over the next decade, the JPA was unable to fully meet its obligations to repay the loan.

In November 2010, in an attempt to reduce the fiscal burden on Chabot, OUSD and the JPA agreed to restructure the Loan through a lease/lease-back agreement (Lease/Lease-Back). Under the Lease/Lease-Back, 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 is paid in full. When the Lease/Lease-Back was executed in 2010, the agreement stated that the outstanding principal balance at that time was \$8,258,281. The Lease/Lease-Back allowed for reductions in principal through in-kind services provided by the JPA, such as reduced admission and summer camp scholarships for OUSD students or use of Chabot for OUSD events. In 2014, the lease payments were restructured again and lowered to \$100,000 per year. According to OUSD, approximately \$6.5 million of the original debt is currently outstanding.

Despite the restructuring, the JPA has been unable to make the obligated payments. Lease payments have been as much as 10 percent of the JPA's operating budget, and the payments have eroded Chabot's financial viability.

After several years of discussion between OUSD, JPA and the City, the current proposal was conceived to permanently resolve the situation in a manner that addresses the needs of all parties and establishes a path toward long-term sustainability for Chabot.

City Funding of Chabot

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. Additionally, the City has granted \$273,105 annually from the General Purpose Fund to Chabot since at least fiscal year (FY) 2013 by way of biennial grant agreements.

4919 Mountain Boulevard

The City owns the Mountain Boulevard Property, which is comprised of approximately 11.34-acres, located at 4919 Mountain Boulevard, as depicted on **Attachment D** attached hereto. The property is zoned Open Space-Special Use and had been the previous location of the Chabot observatory and planetarium from 1915 until they were closed in 1999 due to earthquake safety issues and replaced with the present-day facilities at the Skyline Boulevard Property. The old observatory and related shed remain on-site and unutilized. Currently, there are also eight modular buildings on the property used by OUSD as a Community Day School dedicated to using a therapeutic and restorative justice approach to give students a second opportunity to succeed in school. The appraised value of the property as of September 2019 is approximately \$2 million with current zoning, and up to \$8 million if rezoned for medium-density, market-rate, residential development.

The proposed lease of the Mountain Boulevard Property would allow OUSD to continue its existing use of the property. It would exclude the observatory and related building, which are of no use to OUSD. The City would retain the right to renovate and adaptively reuse these buildings.

ANALYSIS AND POLICY ALTERNATIVES

Master Dissolution and Transfer Agreement and Ongoing City Funding

Execution of the Master Dissolution and Transfer Agreement would trigger a sequence of steps leading to the dissolution of the Chabot JPA in 2021 and the transfer of its assets, liabilities and responsibilities to the Foundation. This would relieve the City of any and all liabilities arising from its association with the JPA and simplify the City's relationship with Chabot. The City would take ownership of the improvements that comprise Chabot and lease the land and improvements to the Foundation (pursuant to the Skyline Boulevard Lease), retaining limited responsibilities for the maintenance of the Skyline Boulevard Property. The City would commit to a 10-year grant period at its existing funding level subject to the availability of funds, but otherwise, all matters related to the governance of, operation of and fundraising for Chabot would be handled by the Foundation. The Foundation bylaws would require its board to include representation from underrepresented communities (as is otherwise required of corporations per recently-passed State law), aspire to have board composition that more closely reflects the racial demographics of Oakland, and consider recommendations from the City regarding new board appointments.

Consistent with the current arrangement, the City would be responsible for maintaining a fuel break around the improvements and providing occasional sweeping of the interior road and parking areas. In addition, the City would agree to explore additional, potential funding opportunities with the Foundation to help address deferred maintenance associated with the

buildings, roads and parking areas, such as through the City's Capital Improvement Program, although any such funding would be subject to future City Council approval.

The proposed transaction would ensure that the Foundation, EBRPD and the public can continue to utilize a 250-car parking garage located on otherwise vehicularly landlocked EBRPD-owned property adjacent to the Skyline Boulevard Property. The garage serves both Chabot and EBRPD's Roberts Regional Recreation Area and Reinhardt Redwood Regional Park. To accomplish this the City would grant an access easement to EBRPD over the Skyline Boulevard Property and EBRPD would lease the garage for 34 years and eleven months to the Foundation for one dollar per year.

The proposed transition of Chabot is similar to what occurred with the Oakland Museum of California (OMCA). The City originally operated and managed OMCA in partnership with the Oakland Museum of California Foundation. In 2011 management transferred entirely to the OMCA Foundation, which commenced leasing the land and improvements from the City and managing the collection. Concurrently, the City entered into a ten-year grant agreement with the OMCA Foundation for annual City funding that tapered from \$5 million in the first year (35 percent of total museum budget) to \$3 million in the tenth year (15 percent of total museum budget).

4919 Mountain Boulevard

The City's long-term lease of the Mountain Boulevard Property to OUSD (Mountain Boulevard Lease) will formalize OUSD's use of the site, as neither OUSD nor the City have been able to locate any form of written agreement that provides for OUSD's existing use of the site. The Mountain Boulevard Lease will allow the Community Day School to continue serving the community. The Mountain Boulevard Lease will not permit OUSD to expand or change its use of the site without the City's prior approval. Granting long-term use of this approximately \$2 million property will result in full discharge of approximately \$6.5 million JPA debt owed by the JPA to OUSD and establish a path for Chabot to achieve long-term sustainability.

OUSD has expressed interest in developing the Mountain Boulevard Property for additional uses, such as for affordable workforce housing. Such use would be outside the scope of and would not be allowed under the proposed lease. However, City staff would evaluate any such proposal received from OUSD and return to City Council for direction at that time.

Consistent with the current arrangement, the City would be responsible for securing and maintaining the historic and now dilapidated observatory and related building. The City could elect to redevelop and adaptively reuse these buildings in a way that is not inconsistent with the Community Day School use.

Policy Alternative

The City could elect not to enter into the Master Dissolution and Transfer Agreement and the implementing documents, and/or not to lease the Mountain Boulevard Property to OUSD. OUSD would then not consent to the termination of the JPA and would be in a position to declare the JPA in default of its obligations, take possession of Chabot and assume the leasehold interest in the Skyline Boulevard Property, interests worth approximately \$12 million. This would jeopardize the continued operation of Chabot to the detriment of Oakland students, residents and taxpayers.

This alternative scenario would allow the City to reclaim its interest in the Mountain Boulevard Property, which has an estimated value of approximately \$2 million under current zoning and up to approximately \$8 million if rezoned for multi-family residential development. Development on the property would be challenging given the geography of the site, which is steeply sloping in most areas, and that the property is currently zoned as Open Space. The Open Space Element requires no net loss and if the site were to be rezoned for development, the City would need to create 11.34 acres of open space elsewhere in Oakland.

FISCAL IMPACT

The recommended actions will hold constant the City's historic and current level of financial support of Chabot.

The actions will not change Chabot's 12.5 percent allocation of Measure C Transient Occupancy Tax surcharge funds, although following dissolution of the JPA, these funds will be redirected from the JPA to the Foundation. This allocation would continue to be paid from Measure C Transient Occupancy Tax Surcharge Fund (2419), City-Wide Activities Organization (90591), Services Miscellaneous Contract Account (54919), TOT Surcharge-Chabot Project (1001493), Citywide Activities Program (IP50).

The City would continue to make annual grants to the Foundation in the amount of \$273,105 annually from the General Purpose Fund for a period of 10 years, subject to the availability of funds as appropriated by City Council in each biennial budget. These grants would continue to be paid from General Purpose Fund (1010), OPR Administrative Services Organization (501120), Third Party Grant Contracts Earned Account (54912), Chabot Space & Science Center Subsidy Project (1001428), Contract Management Program (NB02). The City has been making annual grants to Chabot from this source in this amount since at least FY 2013. The only proposed modification is to commit up-front to 10 years of funding.

The JPA is currently paying the City one dollar (\$1) per year for its lease of the Skyline Boulevard Property; this would remain constant under the new lease with the Foundation. OUSD is currently not paying the City for its use of the Mountain Boulevard Property; this would increase to one dollar (\$1) annually under the Mountain Boulevard Lease. Both lease payments would be received in General Purpose Fund (1010), Real Estate Organization (85231), Miscellaneous Land Rental Account (44219), EWDD Administrative Project (1000019), Real Estate Program (PS32).

The City would commit to exploring additional potential funding opportunities, such as through the Capital Improvement Program, to help the Foundation address deferred maintenance issues. However, any such funding would be subject to future City Council authorization.

The City would not be realizing approximately \$6 million in development potential by leasing the Mountain Boulevard Property to OUSD, but as described above there are significant hurdles to the City realizing this value, and any alternate use such as for development proposed by OUSD would be subject to City Council review and approval.

The proposed actions would relieve the City of any liabilities the City may have under the JPA, if any.

Aside from the use of staff time to negotiate, draft, and execute the associated agreements, there are no other fiscal impacts expected from the recommended actions.

PUBLIC OUTREACH/INTEREST

The parties reached agreement on the essential business terms presented here in October/November 2020. The proposed ordinances require two readings before City Council. OUSD's Board of Education, EBRPD's Board of Directors and the JPA Board of Directors will likewise all consider the proposed transaction in respective public meetings scheduled for December 2020.

COORDINATION

The proposed transaction was developed by the Real Estate and Public Private Development Divisions of the Economic and Workforce Development Department in close partnership with the City Attorney's Office and in consultation with the City Administrator's Office, Budget Bureau, Public Works Department, Parks, Recreation and Youth Development Department, and City Council District 4 and 6 Offices. City Staff coordinated with staff and leadership from OUSD, the JPA, and EBRPD.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed recommendations will relieve Chabot of \$6.5 million of debt and establish a pathway for long-term sustainability, remove bad debt from OUSD's balance sheet, provide a long-term site control for the Community Day School at the Mountain Boulevard Property, and eliminate the City's, OUSD's and EBRPD's liabilities, if any, arising from the JPA. All parties will benefit from the proposed recommendations.

Environmental: There is no direct environmental impact from the recommended actions as the uses of the Skyline Boulevard Property and Mountain Boulevard Property will not change.

Race & Equity: The recommended actions will preserve an educational resource for all Oakland students and residents, require that the Foundation board of directors better reflect Oakland's racial diversity, and preserve the Community Day School which is an alternative program within OUSD that supports students with counseling and a Restorative Justice program.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This action is exempt from the California Environmental Quality Act (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.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends The City Council Adopt The Following Pieces Of Legislation For Real Property Located At 10000 Skyline Boulevard (Skyline Boulevard Property) And At 4919 Mountain Boulevard (Mountain Boulevard Property):

(1) An Ordinance That Authorizes The City Administrator Or Designee To Negotiate And Execute A Master Dissolution And Transfer 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 (EBPRD), And Eastbay Astronomical Society (EAS) Related To The Chabot Space & Science Center (Chabot) Located At 10000 Skyline Boulevard (Skyline Boulevard Property) To:

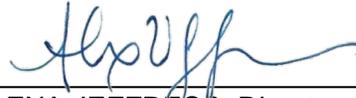
- (A) Dissolve The JPA And Terminate The JPA Agreement;
- (B) Terminate The Existing City-JPA Ground Lease Of The Skyline Boulevard Property And Related Agreements;
- (C) Terminate And Release The Existing Lease-Leaseback Agreements To Fully Discharge Approximately \$6.5 Million Debt Owed By The JPA 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 EBPRD For Access To and From Skyline Boulevard And The Parking Garage Located on EBRPD- Owned Property Adjacent To The Skyline Boulevard Property; And

(2) An Ordinance That Authorizes The City Administrator Or Designee To Negotiate And Execute A Sixty Year Lease, And Related Documents, With The Oakland Unified School District (OUSD), As Tenant, Of The Real Property Located at 4919 Mountain Boulevard For OUSD's Discharge Of The Chabot Space & Science Center Joint Powers Agency Debt Of Approximately \$6.5 Million Debt To OUSD And Payment Of Rent To The City, As Landlord, Of One Dollar (\$1) Per Year And Related Documents; And

(3) A Resolution Awarding A Ten Year Grant Agreement To Support The Mission and Programs Of The Foundation, Payable In Annual Amounts Of Two Hundred Seventy Three Thousand One Hundred And Five Dollars (\$273,105), Subject To Funding Availability.

For questions regarding this report, please contact Brendan Moriarty, Real Property Asset Manager at (510) 238-6354.

Respectfully submitted,



ALEXA JEFFRESS, Director
Economic and Workforce Development

Reviewed by:
Brendan Moriarty, Real Property Asset
Manager

Prepared by:
Theresa Lopez, Urban Economic Coordinator
Public/Private Development

Attachments (4):

- A: Master Dissolution and Transfer Agreement
- B: Ground Lease for 4919 Mountain Boulevard with OUSD
- C: Depiction of Skyline Boulevard Property
- D: Depiction of Mountain Boulevard Property