

2010 SEP 30 PM 3:03 **OAKLAND CITY COUNCIL**
ORDINANCE NO. 13045 C.M.S.

A CITY ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A CONDITIONAL ASSIGNMENT AGREEMENT WITH THE CHABOT SPACE AND SCIENCE CENTER ("CHABOT") AND THE OAKLAND UNIFIED SCHOOL DISTRICT (THE "DISTRICT") TO: (1) SUBORDINATE THE CITY'S RIGHT TO ASSUME THE GROUND LEASE FOR THE PROPERTY; AND (2) CONSENT TO A RESTRUCTURING OF THE DISTRICT'S LOAN TO CHABOT

WHEREAS, the Chabot Space and Science Center, a joint powers authority ("Chabot") and the City of Oakland (the "City") entered into a Ground Lease dated February 25, 1994, (the "Ground Lease"), pursuant to which the City leased to Chabot certain real property upon which the Space and Science Center facility (the "center") was constructed; and

WHEREAS, the District loaned approximately \$10 million to Chabot to assist in financing construction of the Center (the "Loan"), and in connection therewith, on July 1, 1999, the City and Chabot entered into the First Amendment to the Ground Lease (the "First Amendment"); and

WHEREAS, the First Amendment acknowledges the District's security interest in the Center and provides that should the District foreclose on such security interest, it will have the right to succeed to the interest of Chabot under the Ground Lease, or accept a deed in lieu of foreclosure in connection with a default by Chabot under the Loan; and

WHEREAS, Chabot and the District desire to restructure the Loan to better enable Chabot to repay the outstanding balance, and propose to enter into 1) a Site Lease pursuant to which Chabot will lease the improvements located on the Property to the District (the "Site Lease"), and 2) a Chabot Joint Powers Authority Lease Agreement pursuant to which the District will lease the Improvements back to Chabot for operation of the Chabot Space and Science Center Facility (the "Facility Lease"); and

WHEREAS, the Facility Lease provides that the District and Chabot shall take all actions necessary to terminate, cancel, and reconvey all of the documents and instruments executed in connection with the Loan, including all instruments and agreements providing any form of security interest in connection with the Loan; and

WHEREAS, Section 3.04 of the Joint Powers Agreement of the Chabot Space and Science Center, dated May 26, 1989 (as subsequently amended, the "JPA Agreement") provides that the City and the District (in that order) have certain rights to assume the Ground Lease under certain circumstances; and

WHEREAS, the Facility Lease provides that upon the occurrence of an event of default thereunder by Chabot, and the execution of all applicable cure periods, the District may

assume the Ground Lease, thereby succeeding to the interests of Chabot in the Ground Lease and Improvements, and the District will thereafter operate the Center; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 (“CEQA”), the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been met; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby approves of the District’s restructuring of the loan to Chabot, and consents to the execution of the Site Lease and the Facility Lease.

Section 2. The City Council agrees that following any future occurrence of an event of default by Chabot under the Facility Lease and the expiration of all applicable cure periods, the City shall, upon District's request, approve an assignment of Chabot's interests under the Ground Lease, to the District.

Section 3. For so long as the Facility Lease is in effect, the City agrees to subordinate its option to assume the Ground Lease to the District's option to assume the Ground Lease, pursuant to Section 3.04 of the JPA Agreement

Section 4. The City Administrator, or his designee, is authorized to negotiate and execute the Conditional Assignment Agreement, and any amendments thereto, and any other documents and subsequent amendments necessary to effectuate the purposes of this Ordinance.

Section 5. The City Council has independently reviewed and considered this environmental determination and the City Council finds and determines, based on the information in the staff report accompanying this Ordinance, that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15301(a) (existing facilities) of the CEQA guidelines.

Section 6. The City Administrator, or his designee, shall cause to be filed with the County of Alameda a Notice of Exemption and an Environmental Declaration for this action.

Section 7. All agreements executed by the City pursuant to this Ordinance shall be approved as to form and legality by the City Attorney’s Office and a copy shall be filed with the Office of the City Clerk.

Section 8. This Ordinance shall become effective immediately upon 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 , NOV 9 2010

PASSED BY THE FOLLOWING VOTE:

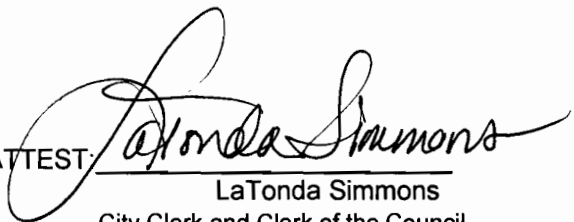
AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and
PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland , California

Introduction Date OCT 19 2010