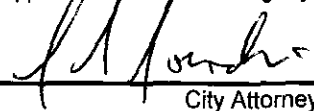


FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

2004 DEC 22 AM 10:17 RESOLUTION No. 79001 = C.M.S.

REVISED

**RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF OAKLAND AND OAKLAND CHILDREN'S FAIRYLAND, INC.,
FOR THE OPERATION AND MANAGEMENT OF CHILDREN'S FAIRYLAND,
FOR A FIFTEEN-YEAR TERM EXPIRING ON DECEMBER 31, 2019,
UNDER WHICH THE CITY WILL PAY AN ANNUAL AMOUNT
NOT TO EXCEED \$83,000 AND UTILITY AND INSURANCE PREMIUM COSTS
(PROJECTED TO BE AN ANNUAL AVERAGE OF \$68,000 IN UTILITIES AND
AN ANNUAL AVERAGE OF \$125,000 FOR INSURANCE PREMIUM COSTS)
FOR AN ESTIMATED ANNUAL TOTAL OF \$276,000**

WHEREAS, the City of Oakland ("City") and the Oakland Children's Fairyland, Inc., a non-profit corporation (CFL), seek to enter into an Agreement for the purpose of operating, managing, maintaining and improving Children's Fairyland for the use and benefit of the public; and

WHEREAS, Children's Fairyland, which real property and improvements are owned by the City of Oakland, is located at 699 Bellevue Avenue, Oakland, California (herein referred to as "Park"); and

WHEREAS, the Park is an historic and unique asset for the recreation, education and enjoyment of Oakland's children, students, residents and visitors through its landscaped gardens, colorful storybook and fairytale sets, small rides, farm animals, puppet theatre, picnic areas and other programming; and

WHEREAS, the City wishes to promote and assist in improving the Park as an educational and recreational area; and

WHEREAS, the CFL, which has successfully managed and operated the Park since 1994 under a ten-year agreement with the City, agrees to be solely responsible for the maintenance, operation and improvement of said property; and

WHEREAS, CFL needs City Council approval for the right and authority to collect and use revenues collected at the Park, including sub-licensed concession charges, admission charges, rental fees, and raising of funds in any other lawful manner for the maintenance, operation and improvement of the Park; and

WHEREAS, CFL will submit proposed changes to Park fees and charges to the City Council for approval in the Master Fee Schedule; and

WHEREAS, the CFL Board of Director currently consists of nine members (five members from the Parks and Recreation Advisory Commission and four members from the Lake Merritt Breakfast Club) appointed by the City; and

WHEREAS, CFL desires changes to the size, composition and selection of its Board of Directors and, pursuant to CFL Bylaws Section 15.03, any provisions of the CFL Bylaws providing for the designation, selection, or removal or increase in the number of any Directors or Directors may be adopted, amended, or repealed only by at least five (5) members of the Oakland City Council; now therefore be it

RESOLVED: That the City Administrator of the City of Oakland is hereby authorized and directed to negotiate and execute an Agreement with CFL for a fifteen-year term expiring on December 31, 2019; and be it

FURTHER RESOLVED: That the City will pay an annual subsidy to CFL in an amount not to exceed eighty-three thousand dollars (\$83,000); and be it

FURTHER RESOLVED: That the City will also provide, assuming 5 percent annual increases, an average of sixty-eight thousand dollars (\$68,000) per year for electricity, water, and garbage removal, and pay Commercial General Liability/Property Loss premiums of ninety-three thousand dollars (\$93,000) in Policy Year 1 (current through December 4, 2005) and an average of one hundred twenty-five thousand dollars (\$125,000) per year thereafter, and any uninsured claim greater than ten thousand dollars (\$10,000); and be it

FURTHER RESOLVED: That funds in FY 2004-05 are available from the City's General Purpose Fund 1010, City Facilities Fund 4400 and/or the Landscaping and Lighting Assessment Fund (LLAD) Fund 2310 in the FY 2004-05 budgets of the following agencies and departments: Office of Parks and Recreation: \$83,000 Annual Subsidy Fee (General Purpose Fund 1010, Organization 503230, Account 53719, NB02); Public Works Agency: Electricity (City Facilities Fund 4400 & LLAD Fund 2310, Organization 30634, Account 53112); and Water & Garbage (LLAD Fund 2310, Organization 30651, Account 53114 & 53115); Risk Management Division: Insurance premiums (General Purpose Fund 1010, Organization 90311, Account 53411); and funds for Agreement fiscal years 2 through 15 will be included as part of the Agency / Department's future operating budgets; and be it

FURTHER RESOLVED: In summary, that the City Council authorize an agreement between the City of Oakland and Oakland Children's Fairyland, Inc., for the operation, management, maintenance and improvement of Children's Fairyland, for a fifteen-year term expiring on December 31, 2019, under which the City will pay an annual amount not to exceed \$83,000 and utilities and insurance premium costs (projected to be an annual average of \$68,000 in utilities and an annual average of \$125,000 for insurance premium costs), for an estimated annual total of \$276,000; and be it

FURTHER RESOLVED: That the City Council approve increasing the size of the CFL Board of Directors from the current total of nine (9) members to a new total of eleven (11) members, which shall be selected from a broad cross-section of people in the Bay Area that reflects the cultural diversity of the Oakland community/East Bay area; and be it

FURTHER RESOLVED: That seven (7) of the CFL Board of Directors shall be appointed by CFL and four (4) shall be appointed by the City, of which three (3) shall be appointed by the Mayor and confirmed by City Council and one (1) shall be a City Administrator designee; and be it

FURTHER RESOLVED: That the Office of the City Attorney shall review and approve the Agreement authorized by this Resolution prior to the City Administrator's execution of same; and a copy of the Agreement will be on file at the Office of the City Clerk; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to take whatever action is necessary with respect to the Oakland Children's Fairyland, Inc., Agreement for Park operations in accordance with the basic purpose of this Resolution.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 4 2005, 20

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and PRESIDENT DE LA FUENTE *—8*

NOES- *0*

ABSENT- *0*

ABSTENTION- *0*

ATTEST: *LaTonda Simmons*
Interim *LaTonda Simmons*
City Clerk and Clerk of the Council
of the City of Oakland, California