

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

  
CITY ATTORNEY'S OFFICE

# OAKLAND CITY COUNCIL

**ORDINANCE NO. \_\_\_\_\_ C.M.S.**

**AN ORDINANCE (A) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A 10-YEAR LEASE BETWEEN THE CITY AND API CULTURAL CENTER, INC. OF THE CONDOMINIUM LOCATED AT 388 9TH STREET, SUITE 290, WITH ONE 5-YEAR ADMINISTRATIVE OPTION TO EXTEND AND RENT OF ONE DOLLAR (\$1) PER YEAR FOR OPERATION AND MANAGEMENT OF THE OAKLAND ASIAN CULTURAL CENTER, AND (B) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the City of Oakland (“City”) owns a condominium unit located at 388 Ninth Street, Suite 290, in the Pacific Renaissance Plaza (the “Premises”); and

**WHEREAS**, Pacific Renaissance Plaza is subject to that certain Declaration of Covenants, Conditions and Restrictions Establishing a Plan for Condominium Ownership of Pacific Renaissance Plaza dated as of August 1, 1992 (the “CC&Rs”) and that certain Joint Operating Agreement, Joint Operating Area No. 1 dated as of May 4, 1993 (the “JOA”); and

**WHEREAS**, the Premises was designated to house a cultural facility known as the Oakland Asian Cultural Center (“OACC”), which has operated in the Premises since at least 1994; and

**WHEREAS**, on February 27, 2003, the City and API Cultural Center, Inc., a California nonprofit public benefit corporation (“API”), entered into a management agreement (“Management Agreement”) to manage the operations of OACC, including funding all costs of its management services and operations of OACC from revenues generated by events and fundraising activities at OACC and various grants from the City; and

**WHEREAS**, the initial five (5) year term of the Management Agreement expired in March 2008 and has been extended year to year; and

**WHEREAS**, the Premises is subject to monthly assessments pursuant to the CC&Rs and the JOA and the OACC has deferred maintenance; and

**WHEREAS**, the City and API desire to replace the Management Agreement with a lease of the Premises, together with a grant agreement to provide greater stability for API and to address certain operational costs and maintenance of the Premises and OACC; 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 replace the Management Agreement with a lease of the Premises to provide stability for API and enhance management and operation of OACC.

**SECTION 2.** The City Council hereby authorizes the City Administrator to negotiate and execute: (a) a ten (10)-year lease with API of the Premises with one five (5)-year option to extend and rent of One Dollar (\$1) per year according to the terms set forth in the Term Sheet attached to the Agenda Report for this item; (b) 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; and (c) such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate and consummate the transactions in accordance with this Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

**SECTION 3.** City Council hereby authorizes that the lease payments required under the lease will be accepted and appropriated to the General Purpose General Fund (1010), Real Estate Organization (85231), DP850 Departmental Administrative Project (1000019), Real Estate Program (PS32).

**SECTION 4.** 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 5.** The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

**SECTION 6. 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 7. 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 – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California

Date of Attestation: \_\_\_\_\_

## NOTICE AND DIGEST

**AN ORDINANCE (A) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A 10-YEAR LEASE BETWEEN THE CITY AND API CULTURAL CENTER, INC. OF THE CONDOMINIUM LOCATED AT 388 9TH STREET, SUITE 290, WITH ONE 5-YEAR ADMINISTRATIVE OPTION TO EXTEND AND RENT OF ONE DOLLAR (\$1) PER YEAR FOR OPERATION AND MANAGEMENT OF THE OAKLAND ASIAN CULTURAL CENTER, AND (B) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

This Ordinance authorizes the City Administrator to negotiate and execute a ten (10) year lease with API Cultural Center, Inc. of the City-owned condominium unit located at 388 9th Street, Suite 290 with one five (5) year administrative option to extend and rent of One Dollar (\$1) per year to operate and manage the Oakland Asian Cultural Center.