

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

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**AN ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AMENDMENTS TO ONE LEASE AGREEMENT AND ONE LICENSE AGREEMENT, EACH FOR AN ADDITIONAL TERM OF UP TO THREE YEARS, AT NO MONTHLY RENT IN EXCHANGE FOR EMERGENCY SHELTER AND SERVICES, ON THE CITY-OWNED HOME BASE LOT AT 633 HEGENBERGER ROAD, WITH LESSEE YOUTH SPIRIT ARTWORKS AND LICENSEE HOUSING CONSORTIUM OF THE EAST BAY; AND 2) ADOPTING CEQA EXEMPTION FINDINGS.**

**WHEREAS**, the City of Oakland (City) acknowledges that it is facing a serious affordable housing crisis with thousands of residents living in unhoused or in substandard housing conditions; and

**WHEREAS**, the February 2022 Point-In-Time (PIT) Homeless Count and Survey estimated that there were 5,055 people experiencing homelessness in Oakland on a given night, an increase of 984 individuals (24%) from 2019; and

**WHEREAS**, this shelter crisis affects the City's residents disproportionately with more African American, Latino, and elderly individuals experiencing homelessness; and

**WHEREAS**, the current number of homeless individuals in the City far outpaces the number of existing shelter beds, transitional housing or permanent supportive housing units available; and

**WHEREAS**, the shelter crisis exposes houseless and often disabled elders, individuals, and families to the risk of death, illness, and injury due to disease, physical threats, exposure to weather and rodents, lack of adequate sanitation and debris services, as well as regular involuntary removal and disposal of personal belonging, forced migration to other parts of the City or outside of the City, and extreme emotional trauma and other conditions that are detrimental to their health and safety; and

**WHEREAS**, unauthorized homelessness encampments have increased substantially across Oakland, within the public right of way, thus exposing homeless individuals to traffic hazards, increased vulnerability to crime, risk of death and injury, exposure to weather, lack of adequate sanitation and debris services and other conditions that are detrimental to their health and safety; and

**WHEREAS**, Oakland residents are being affected by the increasing number of unsheltered individuals with regard to traffic and pedestrian safety, lack of sanitation and debris services; and

**WHEREAS**, analysis and evidence have demonstrated that providing decent, safe and stable housing combined with crucial support services are two primary components of successful transition from homelessness to a safer and healthier way of living; and

**WHEREAS**, the City Council finds that urgent and expeditious efforts are necessary to develop additional shelter solutions that are safe and meet basic habitability standards, and that flexibility and broad-based approaches are essential to increase capacity, particularly given the funding and staff resources that have been committed; and

**WHEREAS**, California Government Code Section 8698.4 provides that, upon a declaration of a shelter crisis, cities and counties may allow persons unable to obtain housing to occupy designated public facilities (including leased facilities), and may adopt alternative health, safety, and zoning standards and procedures for emergency shelters during the duration of the crisis; and

**WHEREAS**, the City Council first adopted a “Declaration of Shelter Crisis” pursuant to California Government Code Section 8698 et seq., and specifically section 8698.4, in Ordinance No. 13456 C.M.S. on October 3, 2017; and

**WHEREAS**, the Declaration of Shelter Crisis must be renewed every two years, and the City Council most recently adopted Ordinance No. 13662 extending the previous Declaration of Shelter Crisis for another two years until September 21, 2023; and

**WHEREAS**, Oakland Planning Code Section 17.07.060.A allows "Emergency Shelter Residential Activities" and "Emergency Housing Facilities," including recreational vehicles and other emergency housing, on property designated by the City Administrator and owned or leased by the City during the Declaration of Shelter Crisis; and

**WHEREAS**, Oakland Municipal Code (O.M.C.) Section 15.04.3.2095 (Emergency Housing Standards), incorporates emergency building standards for emergency housing, including health and safety standards for recreational vehicles, emergency sleeping cabins, membrane structures, and other emergency housing on property owned or leased by the City; and

**WHEREAS**, on July 31, 2020, the City Council approved Ordinance No. 13592, authorizing a three-year lease, at no monthly rent, between the City and Youth Spirit Artworks, a California nonprofit corporation, allowing the construction of Emergency Housing Facilities for unsheltered residents on a portion of the City-owned property located at 633 Hegenberger Road in East Oakland, otherwise known as the Home Base lot (YSA Lease); and

**WHEREAS**, the City Administrator entered into a lease agreement between the City as owner and Youth Spirit Artworks as tenant on June 1, 2020, and such lease expires on May 31, 2023; and

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom, declared a State public health emergency due to the spread of COVID-19 in California, pursuant to Health & Safety Code section 101080 and Government Code section 8625; and

**WHEREAS**, on March 7, 2020, the City Administrator issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, which the City Council ratified on March 12, 2020; and

**WHEREAS**, pursuant to O.M.C. Section 8.50.050, on March 23, 2020, the City Administrator promulgated rules and regulations for programs and actions related to the COVID-19 Crisis (Emergency Order); and

**WHEREAS**, the Emergency Order authorizes the City Administrator to enter into licenses for the sole purpose of addressing the COVID-19 Crisis, including providing temporary shelter to unsheltered residents or to set up isolation facilities to prevent the spread of COVID-19, without authorization by the City Council. Such licenses must terminate within ninety (90) days from the date the City Council terminates the local emergency unless the procedures of O.M.C. Chapter 2.42 are followed within said 90-day window; and

**WHEREAS**, pursuant to the City Administrator's authority under the Emergency Order, on April 15, 2020 the City Administrator entered into a three-year license of a portion of the Property with Housing Consortium of the East Bay expiring on April 14, 2023 (HCEB License); and

**WHEREAS**, on February 28, 2023, the State terminated the statewide declaration of COVID-19 emergency, and in anticipation of the termination of the local emergency, staff recommends that City Council renew the HCEB License pursuant to O.M.C. Chapter 2.42 and permit the use of Emergency Housing Facilities on the property under the Declaration of Shelter Crisis; and

**WHEREAS**, HCEB has requested an expansion of its premises to include a portion of the Property that is currently vacant, in order to provide shelter and services to an additional 20 unsheltered people; and

**WHEREAS**, City Charter Section 219(6) and O.M.C. Section 2.42.100 (b) require leases or licenses of real property longer than one year to be authorized by an ordinance; and

**WHEREAS**, O.M.C. Section 2.42.110 (a) authorizes the City to enter into a lease or license of real property for consideration less than the property's fair market value if the City Council makes a finding and determination that the lease of the property for less than its fair market value is in the best interests of the City and (b) provides that the City Council may consider the value of in-kind services to the City or the community at large, including social and cultural benefits to the community, in making the required finding and determination; and

**WHEREAS**, given the increasing shelter crisis in the City, the shelter and services for unsheltered residents that would be provided under the terms of the proposed extensions of the no-cost lease and license offered on public land would provide benefits to the City and the community at large; and

**WHEREAS**, staff has determined that is in the City’s best interests to renew the YSA Lease at no monthly rent, in exchange for providing emergency shelter and services to Oakland residents, for an additional term extending for the duration of the Declaration of Shelter Crisis, or up to three years; and

**WHEREAS**, staff has determined that is in the City’s best interests to renew the HCEB License at no monthly rent, in exchange for providing emergency shelter and services to Oakland residents, for an additional term extending for the duration of the Declaration of Shelter Crisis, or up to three years, and with an additional 28,362-square feet of licensed premises on the Property;

**WHEREAS**, staff has determined that, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations of Land), 15311 (Accessory Structures), 15322 (In Fill Development Projects), 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), and that no exceptions to the categorical exemptions apply, and is also exempt under the statutory CEQA exemption embodied in Government Code Section 8698.4(a)(4);

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

**SECTION 1.** The City Council finds and determines the foregoing recitals to be true and correct and an integral part of the City Council's decision.

**SECTION 2.** The City Council finds and determines the actions authorized by this Ordinance comply with CEQA. The City Council finds the adoption of this Ordinance is exempt, pursuant to CEQA Guidelines sections 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations of Land), 15311 (Accessory Structures), 15322 (In Fill Development Projects), 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), and that no exceptions to the categorical exemptions apply, and is also exempt under Government Code section 8698.4(a)(4). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

**SECTION 3.** The City Administrator is hereby authorized to (a) negotiate, enter into, and execute an amendment to the YSA Lease for use of a portion of the Home Base Lot, for a maximum of three years, at no monthly rent, on substantially the same terms as the existing YSA Lease, and (b) to allow improvements to and use of the premises in compliance with the Emergency Housing Standards, in order to serve unsheltered residents.

**SECTION 4.** The City Administrator is hereby authorized (a) to negotiate, enter into, and execute an amendment to the HCEB License for use of a portion of the Home Base Lot by Housing Consortium of the East Bay, for a maximum of three years at no monthly rent, on substantially the same terms as the existing HCEB License, (b) to allow improvements to and use of the premises in compliance with the Emergency Housing Standards, in order to serve unsheltered residents, and (c) to expand the licensed premises by approximately 28,362 square feet.

**SECTION 5.** Pursuant to O.M.C. Section 2.42.110 and based on the value of the services discussed above and in the City Administrator's report accompanying this Ordinance, the City Council hereby finds and determines that offering public land for interim emergency shelter and services for unsheltered residents for less than fair market rental value is in the best interests of the City.

**SECTION 6.** The City Council directs the Environmental Review Officer, or designee, to cause to be filed a Notice of Exemption with the appropriate agencies.

**SECTION 7.** The City Administrator, or his or her designee, is authorized and directed to execute any and all documents, consistent with the terms and conditions of this Ordinance.

**SECTION 8.** All documents shall be approved as to form and legality by the Office of the City Attorney.

**SECTION 9.** The Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

**SECTION 10.** 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.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, 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 (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AMENDMENTS TO ONE LEASE AGREEMENT AND ONE LICENSE AGREEMENT, EACH FOR AN ADDITIONAL TERM OF UP TO THREE YEARS, AT NO MONTHLY RENT IN EXCHANGE FOR EMERGENCY SHELTER AND SERVICES, ON THE CITY-OWNED HOME BASE LOT AT 633 HEGENBERGER ROAD, WITH LESSEE YOUTH SPIRIT ARTWORKS AND LICENSEE HOUSING CONSORTIUM OF THE EAST BAY; AND 2) ADOPTING CEQA EXEMPTION FINDINGS.**

The Ordinance would authorize the City Administrator to negotiate and enter into amendments to two existing real estate agreements for the use of the City-owned property known as the Home Base Lot located at 633 Hegenberger Road for emergency shelter services. The City Administrator would be authorized to amend the existing lease with Youth Spirit Artworks, a nonprofit corporation, and the existing license with Housing Consortium of the East Bay, a nonprofit corporation, each for an additional term of up to three years, and each at no monthly rent in exchange for providing shelter services and facilities to unhoused residents of Oakland. The Ordinance makes findings that the lease and license amendments are in the best interest of the City and also makes required California Environmental Quality Act exemption findings.