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APPROVED AS TO FORM AND LEGALITY

FILED
INTRODUCED BY COUNCIL MEMBER PRESIDENT NIKKI FORTUNATO BAS
OAKLAND


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13749 C.M.S.

AN ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LICENSE AGREEMENT WITH TRYBE, INC., A CALIFORNIA NONPROFIT ORGANIZATION, TO ACTIVATE THE SAN ANTONIO PARK TENNIS COURTS FOR TOWN NIGHTS AND YEAR-ROUND COMMUNITY PROGRAMMING FOR A 1-YEAR TERM WITH TWO 1-YEAR OPTIONS AT A RATE OF ZERO DOLLARS (\$0.00) PER YEAR, EFFECTIVE JUNE 1, 2023; (2) MAKING FINDINGS THAT THE LICENSE FOR BELOW FAIR MARKET VALUE IS IN THE BEST INTEREST OF THE CITY; AND (3) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the City owns real property located at 1701 E. 19th Street at the intersection of Foothill Boulevard and 18th Avenue, Oakland, CA 94606 (APN 20-295-1), otherwise known as San Antonio Park; and

WHEREAS, the City's Department of Violence Prevention intends to host a series of Town Nights throughout the City in the summer of 2023 in order to build community and enhance public safety; and

WHEREAS, Trybe, Inc. is a nonprofit organization that proposes to activate a portion of the San Antonio Park consisting of tennis courts (Property) in unplayable condition with community benefitting uses, beginning with events during Town Nights on June 16, 2023, in collaboration with the City; and

WHEREAS, the non-exclusive and temporary use of the Premises by Licensee for community benefitting uses is consistent with the City's plans for the Property set forth in the draft 2022 San Antonio Park Master Plan, does not authorize development, and thus is not a disposition of surplus property under Government Code section 54220 et seq.; and

WHEREAS, in Section 219(6) of the Charter, the license or lease of City-owned real property by the City for longer than one year must be authorized by an ordinance enacted by the City Council pursuant to Oakland Municipal Code Section (OMC) 2.42.100; and

WHEREAS, pursuant to OMC Section 2.42.110, City-owned real property must be licensed or leased for a rent or fee, payable in cash or other consideration, equal to or exceeding

the property's fair market value, unless the City Council determines that the license or lease of the property for less than its fair market value is in the best interest of the City; and

WHEREAS, in the case of licensees or lessees who provide in-kind services in lieu of cash rent, the value of such in-kind services to the City or the community at large may be considered in making the required Council finding and determination. In-kind services include benefits or values the provider renders to the City or the community at large as a result of the tenancy in lieu of payment of cash, including, but not be limited to, property security and maintenance, social and cultural benefits to the community, or other appropriate services. Comparable below-market rate license/lease agreements for in-kind services include: Scraper Bike Team at Arroyo Viejo Park and Fam 1st Family Foundation at the West Oakland Youth Center, among other examples; and

WHEREAS, Trybe Inc. is a nonprofit organization that proposes to activate the San Antonio Park through year-round programming centered on community resilience through distribution of food and other necessities, emergency resource navigation, and community safety and celebration events and serve seniors, school-aged and transitional age youth, infants/toddlers and caregivers, and immigrants/refugees in the San Antonio, Little Saigon, Eastlake and Fruitvale neighborhoods in Oakland; and

WHEREAS, Trybe Inc. has served the San Antonio and surrounding neighborhoods for 15 years, and over the past three years has supported the community through: coordinating and executing food giveaways (the equivalent of 5.4 million meal equivalents as a single organization); resource navigation fairs (where they've distributed more than \$23 million in food and other resources), community actions, events and meetings, averaging 40 per year; executing necessary programming for infants, youth, families, and seniors in the San Antonio and surrounding areas that addresses health disparities, financial preparedness, job training, youth development, homelessness, and other issues; and, Trybe Inc. delivers 1,000,000 units of services and serves upwards of 21,000 individuals annually, at least 40% of whom are in the 94606 area code; and

WHEREAS, the proposed temporary use of the Property for Town Nights and year round community programming, including the temporary installation of four mobile storage pod containers, is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); and

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

SECTION 1. The City Administrator is hereby authorized to negotiate and execute a license agreement with Trybe, Inc. for use of four tennis courts at the San Antonio Park for Town Nights and community benefiting uses for a 1-year term with two 1-year options at a rate of Zero Dollars (\$0.00) per year, effective June 1, 2023.

SECTION 2. The City Council finds and determines that the license of the Properties for less than its fair market rental value is in the best interests of the City pursuant to OMC Section 2.42.110, because Trybe Inc. will activate the San Antonio Park by providing year-round

programming for seniors and youth in the San Antonio, Little Saigon, Eastlake and Fruitvale neighborhoods in Oakland.

SECTION 3. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (operation, licensing, and minor alteration of existing public facility), 15311 (placement of temporary minor structures accessory to publicly owned parks or other facilities designed for public use), and 15061(b)(3) (no significant effect on the environment). The City Administrator or designee is hereby directed to file a Notice of Exemption with the appropriate agencies.

SECTION 4. That the license agreement is subject to City Attorney review and approval for form and legality and a copy of this resolution shall be filed with the City Clerk without returning to Council.

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,

JUL 18 2023

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, ~~AMSTRONG~~, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS -7

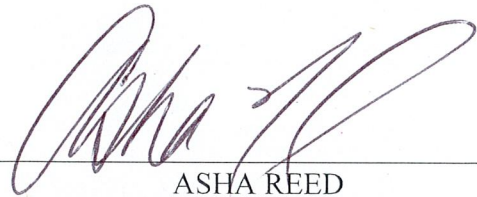
NOES ~~0~~

ABSENT ~~0~~

ABSTENTION ~~0~~

1 Excused - Jenkins

ATTEST:



ASHA REED

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

Introduction Date

JUN 20 2023

Date of Attestation:

July 24, 2023

NOTICE AND DIGEST

AN ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LICENSE AGREEMENT WITH TRYBE, INC., A CALIFORNIA NONPROFIT ORGANIZATION, TO ACTIVATE THE SAN ANTONIO PARK TENNIS COURTS FOR TOWN NIGHTS AND YEAR-ROUND COMMUNITY PROGRAMMING FOR A 1-YEAR TERM WITH TWO 1-YEAR OPTIONS AT A RATE OF ZERO DOLLARS (\$0.00) PER YEAR, EFFECTIVE JUNE 1, 2023; (2) MAKING FINDINGS THAT THE LICENSE FOR BELOW FAIR MARKET VALUE IS IN THE BEST INTEREST OF THE CITY; AND (3) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance authorizes the City Administrator to negotiate and execute a license agreement with Trybe, Inc. for use of four tennis courts at the San Antonio Park for Town Nights and year-round community programming for a 1-year term with two 1-year options at a rate of Zero Dollars (\$0.00) per year, effective June 1, 2023; makes findings that the license for below market rate is in the best interest of the City; and makes appropriate California Environmental Quality Act (CEQA) findings.