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**OAKLAND CITY COUNCIL**

  
City Attorney

**ORDINANCE No. ~~13473~~ 13473 C.M.S.**

**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A LICENSE AGREEMENT WITH SEQUOIA NURSERY SCHOOL, INC. TO OPERATE A COOPERATIVE NURSERY SCHOOL AT THE SEQUOIA LODGE FOR A FIVE-YEAR TERM FOR A LICENSE FEE OF \$1,457.83 PER MONTH; AND AMEND THE LICENSE AGREEMENT FOR TWO CONSECUTIVE FIVE-YEAR TERMS WITHOUT RETURNING TO COUNCIL**

**WHEREAS**, the City of Oakland is the owner and Oakland Parks and Recreation (OPR) is the custodial agency of the real property commonly known as Sequoia Lodge, located at 2666 Mountain Blvd, Oakland, California; and

**WHEREAS**, Sequoia Nursery School, Inc. (hereinafter referred to as "SNS") was established in 1947 as a parent co-operative nursery school; and

**WHEREAS**, SNS is classified under the Internal Revenue Code, Section 501(c)(3) as a tax exempt, public benefit corporation; and

**WHEREAS**, SNS desires to continue use of Sequoia Lodge for the purposes of operating a co-operative nursery school; and

**WHEREAS**, SNS will occupy the lodge five days a week, 8:30 a.m. to 12:30 p.m., September through the third week in June each year; and

**WHEREAS**, SNS is authorized to use the lodge two weekday evenings per year for meetings and one Saturday per year for a banquet/fundraiser, at no cost to SNS, and subject to the availability of the Property; and

**WHEREAS**, City Administrator shall have the authorization to amend the Agreement to extend the Agreement for two consecutive five-year terms; and

**WHEREAS**, the SNS shall provide its own cleaning services, its telephone and cable television hook-up services, and related charges; and

**WHEREAS**, SNS agrees to pay the City a monthly license fee of One Thousand Four Hundred Fifty-Seven Dollars and Eighty-Three Cents (\$1,457.83) for each month of use, adjusted each year based on the relative percentage change in the Consumer Price Index (CPI) not to exceed 8% per year and not less than 4% per year; and

**WHEREAS**, SNS shall not make any improvements or adjustments at the property without written approval by the City Administrator or designee; and

**WHEREAS**, SNS shall comply with the City’s Special Event Access for People with Disabilities as stated in the Declaration of ADA Compliance for Facility Use Agreements and Other Special Events Agreements; and

**WHEREAS**, the OPR Department shall be responsible for scheduling the use of Sequoia Lodge for SNS and other groups;

**WHEREAS**, Oakland Municipal Code (“OMC”) Section 2.42.100 provides that leases (including licenses) of City property require approval by ordinance; and

**WHEREAS**, OMC Section 2.42.110 provides that the value of in-kind services in lieu of cash rent (license fees) provided by lessees (licensees) to the City or the community at large, including property security and maintenance, and social and cultural benefits to the community, may be considered by the Council in making a finding that the lease (license) of property for less than its fair market rental (license) value is in the best interests of the City;

**WHEREAS**, SNS is providing valuable in-kind services that include property security including opening and closing the facility and driveway gate during use, ensuring that facility and gate are locked upon departure, reporting maintenance issues to City; care of the grounds, playground and building by cleaning, sweeping, and picking up debris before and after school ends; and social and cultural benefits to the community at large by serving parents and children ages three to five years old in a secure environment for over 70 years; and

**WHEREAS**, OPR recommends that the City Council make a finding and determination that the lease of the property for less than fair market value is in the best interest of the City.

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

**SECTION 1.** The Oakland City Council authorizes the City Administrator to execute a license agreement with Sequoia Nursery School to operate a co-operative nursery school at the Sequoia Lodge for a five-year term as described in this resolution, and amend the license agreement for two additional five-year terms without returning to Council.

**SECTION 2.** The City Administrator is hereby authorized to approve any subsequent amendments, modifications, or extensions of said agreement without returning to Council, except those increasing the term of the agreement beyond the three five-year terms.

**SECTION 3.** Pursuant to OMC section 2.42.110 and based on the value of the in-kind services provided by Sequoia Nursery School as discussed above and in the City Administrator’s report accompanying this Ordinance, the City Council hereby finds that the license of the Sequoia Lodge for less than its fair market value under the terms of this Ordinance is in the best interest of the City.

**SECTION 4.** The proposed license agreement shall be approved as to form and legality by the Office of the City Attorney and placed on file in the Office of the City Clerk.

**SECTION 5.** 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 Ordinance. 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 6.** 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.

FEB 06 2018

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID — 8

NOES - 0

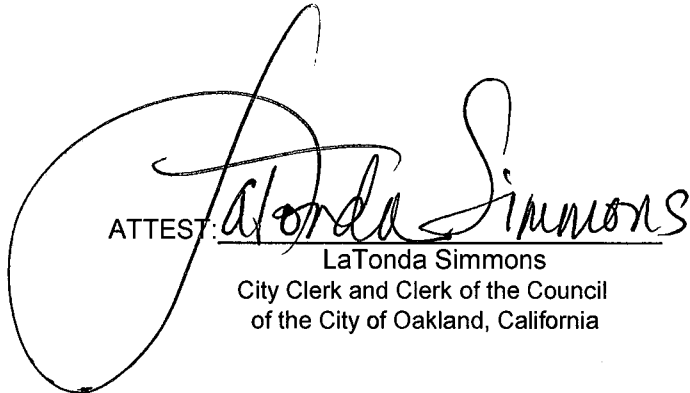
ABSENT - 0

ABSTENTION - 0

**Introduction Date**

JAN 16 2018

ATTEST:



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

## NOTICE AND DIGEST

### **ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A LICENSE AGREEMENT WITH SEQUOIA NURSERY SCHOOL, INC. TO OPERATE A COOPERATIVE NURSERY SCHOOL AT THE SEQUOIA LODGE FOR A FIVE-YEAR TERM FOR A LICENCSE FEE OF \$1,457.83 PER MONTH; AND AMEND THE LICENSE AGREEMENT FOR TWO CONSECUTIVE FIVE-YEAR TERMS WITHOUT RETURNING TO COUNCIL**

This Ordinance would authorize a license agreement with Sequoia Nursery School to use the Sequoia Lodge and operate a cooperative nursery school for a five-year term for a license rental rate of \$1,457.83 a month, adjusted each year based on the relative percentage change in the Consumer Price Index (CPI) not to exceed 8% per year and not less than 4% per year. This Ordinance would authorize the City Administrator to extend the license agreement for two additional five-year terms. This Ordinance would make a finding and determination that the license of the Sequoia Lodge for less than its fair market value is in the best interest of the City due to the in-kind services provided by Sequoia Nursery School.