

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

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**ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LICENSE AGREEMENT WITH THE FRIENDS OF PERALTA HACIENDA HISTORICAL PARK TO PROVIDE PROGRAMMING AT THE PERALTA HOUSE, ADJACENT COMMUNITY FAMILY GARDENS, STORAGE BUILDING, AND CENTER FOR HISTORY AND COMMUNITY, FOR A 5-YEAR TERM WITH TWO 5-YEAR OPTIONS AT A RATE OF ONE DOLLAR (\$1.00) PER YEAR; (2) MAKING FINDINGS THAT THE LICENSE FOR BELOW MARKET RATE IS IN THE BEST INTEREST OF THE CITY; AND (3) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT(CEQA) FINDINGS**

**WHEREAS**, the historic 1870 Antonio Maria Peralta House (“Peralta House”) is on the National Register of Historic Places, and the Peralta House and portions of the six-acre Peralta Hacienda Historical Park (“Park”) have been designated as a landmark by the City of Oakland, Alameda County, and the California State Parks Office of Historic Preservation. The Park is a site on the 1,200-mile U.S. National Park Service San Juan Batista de Anza National Historic Trail; and

**WHEREAS**, the City of Oakland owns and provides custodial care for the Peralta House, located at 2465 34<sup>th</sup> Avenue; the adjacent garden area; the adjacent storage building located at 2496 Coolidge Avenue; and the Center for History and Community located at 2488 Coolidge Avenue, which consists of two buildings—a Community Center and a freestanding restroom/mechanical room (collectively, “the Property”); and

**WHEREAS**, Friends of Peralta Hacienda Historical Park is a California 501(c)(3) non-profit corporation (“Friends”) formed in the mid-1970s, incorporated as a nonprofit in 1985, and dedicated to historical preservation and educational outreach. The Friends seek to continue operating their cultural museum and related activities at the Property; and

**WHEREAS**, the Friends continue to actively seek and receive grants and donations for restoring the Park and to provide exhibits and public programming; and

**WHEREAS**, since 2001, the Friends have offered a wide range of public programs, including school-day, after-school, summer and weekend events, tours, classes and celebrations,

including house and site tours serving 45,000 visitors annually, and school field trips, serving 2,500 students annually; and

**WHEREAS**, since 2015, the Friends have provided at the Property free, high quality STEM educational programs in an outdoor setting to youth in the Fruitvale neighborhood, a diverse low-income community with the least per-capita open space in Oakland and the highest per-capita percentage of children and youth in any Oakland district; and

**WHEREAS**, the Friends have partnered with the Oakland Unified School District to create curriculum-based history programs through the Teaching American History Grant Program; and

**WHEREAS**, in 2017, the Friends won the National Museum Medal, a high honor, for services to refugee and immigrant communities; and

**WHEREAS**, the non-exclusive and temporary use of the Properties by the Friends for youth-community benefitting uses is consistent with the City's plans for the Property set forth in the City's 2021 Peralta Hacienda Historic Park Master Plan Update,<sup>1</sup> does not authorize development, and thus is not a disposition of surplus property under Government Code section 54220 et seq.; and

**WHEREAS**, pursuant to 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 rental value, unless the City Council determines that the license or lease of the property for less than its fair market rental 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; and

**WHEREAS**, the Friends agree to provide janitorial, custodial, and security services to the Property, as well as be responsible for the payment of all utilities serving the Property and providing adequate liability insurance; and

**WHEREAS**, the proposed 5-year license with two 5-year options for a 15-year cumulative term would enable Peralta Hacienda to continue actively seeking grants and donations for activities, exhibits, and public programming that require a longer-term license agreement; and

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<sup>1</sup> <https://cao-94612.s3.amazonaws.com/documents/PERALTA-HACIENDA-HISTORICAL-PARK-CEQA-document-1.pdf>

**WHEREAS**, the proposed use of the Property for community programming 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), 15061(b)(3) (no significant effect on the environment), and 15331 (historical resource restoration/rehabilitation); and

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

**SECTION 1.** That the City Administrator is hereby authorized to negotiate and execute a license agreement between the City of Oakland and Friends of Peralta Hacienda Historical Park for limited use of the Peralta House, the adjacent garden area, Center for History and Community, and storage building for a 5-year term with two consecutive 5-year options to renew at a rate of One Dollar (\$1.00) per year.

**SECTION 2.** The City Council finds and determines that the license of the Property for less than its fair market rental value is in the best interests of the City pursuant to OMC Section 2.42.110, because the Friends will activate the Property by providing year-round public programming in Fruitvale and the greater City of 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), 15061(b)(3) (no significant effect on the environment), and 15331 (historical resource restoration/rehabilitation). 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,

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

**ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LICENSE AGREEMENT WITH FRIENDS OF PERALTA HACIENDA HISTORICAL PARK TO PROVIDE PROGRAMMING AT THE PERALTA HOUSE, ADJACENT COMMUNITY FAMILY GARDENS, STORAGE BUILDING, AND CENTER FOR HISTORY AND COMMUNITY, FOR A 5-YEAR TERM WITH TWO 5-YEAR OPTIONS AT A RATE OF ONE DOLLAR (\$1.00) PER YEAR; (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 Friends of Peralta Hacienda Historical Park, an Oakland based California nonprofit organization, to provide community programming at the Peralta House, adjacent Community Family Gardens, adjacent storage building, and Center for History and Community for a 5-year term with two 5-year options at a rate of One Dollar (\$1.00) per year. This Ordinance 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.