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CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL  
ORDINANCE NO. 13369 C.M.S.

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**ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH EAST OAKLAND COMMUNITY PROJECT FOR CITY-OWNED PROPERTY AT 1226-73<sup>RD</sup> AVENUE FOR USE AS A SHELTER PLUS CARE HOUSING FACILITY, FOR A LEASE TERM OF FIVE YEARS UNTIL JUNE 30, 2020**

**WHEREAS**, the City of Oakland owns a four-unit complex at 1226-73rd Avenue that is comprised of two one-bedroom and two two-bedroom units (“the Property”); and

**WHEREAS**, East Oakland Community Project (EOCP), is an Oakland-based nonprofit with significant experience in managing and operating emergency and transitional housing facilities and programs; and

**WHEREAS**, pursuant to Ordinance No. 13034 C.M.S. passed in 2010, the City Council authorized a five-year lease agreement with East Oakland Community Project for the continued use of the Property to house homeless persons enrolled in the Shelter Plus Care (S+C) program; and

**WHEREAS**, the City and EOCP applied for and receive funding from the U.S. Department of Housing and Urban Development (HUD)’s Shelter Plus Care (S+C) Program to provide rental assistance in connection with supportive services for hard-to-serve homeless persons with disabilities; and

**WHEREAS**, the rent for the S+C program is set by HUD at the Fair Market Rent rates for one and two bedroom units; and

**WHEREAS**, the rental assistance derived from HUD is paid directly to EOCP to operate the S+C Program; and

**WHEREAS**, EOCP meets monthly with City staff to review the S+C program, including any tenant improvements and maintenance requests for the Property; and

**WHEREAS**, the proposed lease agreement between the City and EOCP requires that the net income after operating expenses including tenant improvements, be placed into a fixed asset fund managed by EOCP, for future operating costs including tenant improvements at the Property; and

**WHEREAS**, the average net income after operating costs for Calendar 2014 and 2015 was approximately \$11,074.50; and

**WHEREAS**, the current balance of the Fixed Asset Fund available for revenue shortfalls from vacancies, tenant improvements and emergency repairs is \$86,977 as of December 31, 2015; and

**WHEREAS**, if the City does not lease the property to EOCP or later terminates the lease with EOCP, the money in the fixed asset fund will revert to the City; and

**WHEREAS**, the City views the 73<sup>rd</sup> Avenue property as self-sustaining by reinvesting the S+C net income towards future revenue shortfalls from vacancies, tenant improvements and emergency repairs; and

**WHEREAS**, the City desires to continue to lease EOCP the Property for use as a Shelter Plus Care program and extend the lease period for another five years until June 30, 2020; and

**WHEREAS**, Oakland Municipal Code section 2.42.100 provides that leases of City property require Council approval by ordinance; and

**WHEREAS**, Oakland Municipal Code Section 2.42.110 provides that the value of in-kind services in lieu of cash rent provided by lessees 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 of property for less than its fair market rental value is in the best interests of the City;

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

**Section 1.** The City Administrator is authorized to enter into a lease agreement with East Oakland Community Project for use of the property at 1226-73rd Avenue as long term housing under the Shelter Plus Care program for a five year term through June 30, 2020.

**Section 2.** The monthly net income from the S+C program at the property shall be deposited into a Fixed Asset Fund to be available for program operating expenses at the Property, including tenant improvements, revenue shortfalls from vacancies, and emergency repairs.

**Section 3.** Pursuant to Oakland Municipal Code Section 2.42.110 and based on the value of the in-kind services provided by EOCP as discussed above and in the City Administrator's report accompanying this Ordinance, the City Council hereby finds that the lease of the Property for less than its fair market rental value under the terms of this Ordinance is in the best interest of the City.

**Section 4.** The Lease Agreement shall be reviewed as to form and legality by the Office of the City Attorney and copies shall be filed with the City Clerk.

**Section 5. 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 6. 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 MAY 17 2016

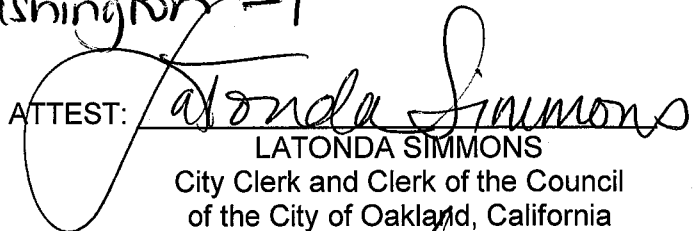
**PASSED BY THE FOLLOWING VOTE:**

AYES -BROOKS, ~~CAMPBELL~~-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY -- 7

NOES - 0

*Excused - Campbell Washington - 1*

ABSTENTION - 0

ATTEST:   
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Introduction Date  
MAY 03 2016

Date of Attestation: 5/20/16

**NOTICE AND DIGEST**

**ORDINANCE AUTHORIZING A LEASE AGREEMENT  
WITH EAST OAKLAND COMMUNITY PROJECT FOR  
CITY-OWNED PROPERTY AT 1226-73<sup>RD</sup> AVENUE FOR  
USE AS A SHELTER PLUS CARE HOUSING  
FACILITY, FOR A LEASE TERM OF FIVE YEARS  
UNTIL JUNE 30, 2020**

This Ordinance authorizes the lease of the City owned property at 1226 – 73<sup>rd</sup> Avenue to the East Oakland Community Project for use as a Shelter Plus Care Program for hard-to-serve homeless persons with disabilities, through June 30, 2020, program income is placed into a fixed asset fund for future tenant improvements and any revenue shortfall from vacancies, and emergency repairs.