

Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 883 15 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT BETWEEN THE CITY, AS TENANT, AND THE CALIFORNIA YARDS, LLC, AS LANDLORD, FOR LANDLORD'S WAREHOUSE LOCATED AT 9812 BIGGE STREET FOR A TERM OF UP TO FIVE AND A HALF (5.5) YEARS AT AN INITIAL RATE OF THIRTY THOUSAND AND TWENTY-SEVEN DOLLARS (\$30,027.00) PER MONTH, ADJUSTED ANNUALLY TO A MAXIMUM RATE OF FORTY-FIVE THOUSAND THREE HUNDRED AND ELEVEN DOLLARS (\$45,311.00), FOR THE PURPOSE OF PROVIDING AN EMERGENCY RESPONSE FACILITY CONSISTENT WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) URBAN SEARCH AND RESCUE UNIT (US&R) GRANT FUNDS, AND TERMINABLE UPON A TWELVE (12) MONTH NOTICE IN THE EVENT OF INADEQUATE FUTURE FUNDING

WHEREAS, the California Governor's Office of Emergency Services and the United States Department of Homeland Security have implemented a State and National Urban Search and Rescue (US&R) Response System; and

WHEREAS, the Federal Emergency Management Agency (FEMA), a component of the Department of Homeland Security (DHS), financially supports all twenty-eight (28) national US&R teams by administering grant funds pursuant to federal cooperative agreements; and

WHEREAS, the Oakland Fire Department is the Sponsoring Agency for California US&R Task Force 4 (CA-TF 4), one of eight (8) California teams trained and equipped to respond to natural disasters and weapons of mass destruction events; and

WHEREAS, the City of Oakland receives annual funding through a FEMA Preparedness Cooperative Agreement to conduct maintenance and store an equipment cache and vehicles for the purpose of maintaining a twenty-four (24) hour per day response capability to a disaster; and

WHEREAS, CA-TF 4 currently uses a warehouse located at 4450 Tidewater Avenue, Oakland, CA, pursuant to a lease agreement that is set to expire on the September 30, 2020 and was authorized pursuant to Resolution No. 8400 adopted on July 5, 2015; and

WHEREAS, the Oakland Fire Department has identified a suitable replacement warehouse for its use at the real property located at 9812 Bigge Street, Oakland, California, which is owned by California Yards, LLC, a limited liability company; and

WHEREAS, all leases of real property by the City must be authorized by a resolution enacted by the City Council for the lease of any real property if the lease payments exceed One Hundred Thousand Dollars (\$100,000.00) over the term of the lease, including any extension periods authorized under the lease, pursuant to Section 2.41.050 of the Oakland Municipal Code; and

WHEREAS, the proposed lease payments for use of the warehouse at 9812 Bigge Street for a term of up to five and a half (5.5) years would total an amount not to exceed One Million, Nine Hundred Forty-Two Thousand, Eight Hundred Twenty-Four Dollars (\$1,942,824.00); and

WHEREAS, since 2012 FEMA US&R Cooperative Agreements have been the funding source for this program, including the rent payments for the CA-TF 4 warehouse, and are expected to fund the rental payments for the warehouse at 9812 Bigge Street throughout the term of the lease; and

WHEREAS, the City Council adopted Resolution No. 87936 C.M.S. on October 31, 2019 authorizing the execution of a grant cooperative agreement with FEMA for receipt of federal funds for the grant funding period commencing September 1, 2019 and expiring in August 31, 2022; and

WHEREAS, the proposed lease payments would be funded through August 31, 2022 pursuant to a FEMA Preparedness Cooperative Agreement with the City, which the Oakland Fire Department will seek to renew annually through the term of the lease; and

WHEREAS, on October 6, 2020, the City Council concurrently considered a resolution (1) authorizing the City Administrator, or designee to: (A) enter into a grant agreement with FEMA for receipt of funds for the period September 1, 2020 to August 31, 2023, in the amount of One Million Two Hundred Sixty-Six Thousand and Six Hundred Thirty-One Dollars (\$1,266,631); (B) accept and appropriate said FEMA funds for the Fire Department's US&R Task Force; (C) expend the FEMA funds in accordance with the preliminary spending plan and government pricing schedules without further Council approval, (2) waiving the City's advertising and competitive bidding and purchasing requirements; (3) and (4) approve a contribution of matching funds required by the grant from the General Purpose Fund (GPF); and

WHEREAS, the proposed lease payments for the CA-TF 4 warehouse at 9812 Bigge Street will be paid with such Council accepted and appropriated federal FEMA funds in accordance with the preliminary spending plan; and

WHEREAS, the federal funding for CA-TF 4 must be applied for by staff on an annual basis. Federal funding of CA-TF 4 has been consistent for three decades. Currently, there are no expected fiscal impacts to the City for CA-TF 4. However, in the event that prior to the expiration of the Lease extension, the Federal Government elects not to renew the funding, the City could terminate the lease with a twelve (12) month notice with adjusted monthly lease payments; and

WHEREAS, pursuant to the Department of Homeland Security Notice of Funding Opportunity for National Urban Search and Rescue Response System, FEMA cooperative grant funds for CA-TF 4 may only be used to pay for warehouse leases for a twelve (12) month consecutive period within the overall three (3) year period of performance, and there is no guarantee of cooperative agreement funding in future years; and

WHEREAS, the proposed lease would commence October 1, 2020, and lease payments using federal funds would begin March 1, 2021; and

WHEREAS, the monthly and annual rent, respectively, from March 1, 2021 to August 31, 2021 is Thirty Thousand and Twenty-Seven Dollars (\$30,027.00) per month; from September 1, 2021 to August 30, 2022 is Thirty Thousand Nine Hundred Twenty-Eight Dollars (\$30,928.00); from September 1, 2022 to August 30, 2023 is Thirty-One Thousand Eight Hundred and Fifty-Six Dollars (\$31,856.00); from September 1, 2023 to August 30, 2024 is Thirty-Two Thousand Eight Hundred and Eleven Dollars (\$32,811.00); from September 1, 2024 to August 30, 2025 is Thirty-Three Thousand Seven Hundred and Ninety-Six Dollars (\$33,796.00); from September 1, 2025 to February 28, 2026 is Thirty-Four Thousand Nine Hundred and Ninety-Five Dollars (\$34,995.00); and be it

WHEREAS, beginning September 1, 2022, the proposed lease would terminate upon a twelve (12) month notice in the event of inadequate funding and monthly lease payments would be adjusted for the remaining twelve (12) months of the lease; now, therefore, be it

RESOLVED: That the City Administrator or designee is hereby authorized to complete all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend this lease agreement between the City, as tenant, and California Yards, LLC, as landlord, for the landlord's warehouse located at 9812 Bigge Street for a term of up to five and half (5.5) years at an initial rate of approximately Thirty Thousand and Twenty Seven Dollars (\$30,027.00) per month, adjusted annually to a maximum rate of Forty-Five Thousand Three Hundred and Eleven Dollars (\$45,311.00), for the purpose of providing an emergency response facility consistent with the FEMA US&R grant funds accepted and allocated by City Council pursuant to the concurrent resolution ; and be it

FURTHER RESOLVED: That in the event that federal funding ceases to be available for the lease; funding is not approved by City Council at each budget approval; and/or the City and landlord are unable to find a replacement tenant or subtenant, beginning September 1, 2022, the City may terminate the lease with a twelve (12) month notice. If the lease terminates prior to February 28, 2024, the monthly base rent shall increase by Twelve Thousand Five Hundred Dollars (\$12,500.00) for the final twelve (12) months of the lease. If the lease terminates after February 28, 2024 and prior to March 1, 2025, the monthly base rent shall increase by Eight Thousand Three Hundred and Thirty-Three Dollars (\$8,333.00) for the final twelve (12) months of the lease. If the lease terminates on or after March 1, 2025, the monthly base rent shall increase by Four Thousand One Hundred and Sixty-Six Dollars (\$4,166.00) for the final twelve (12) months of the lease. All adjusted monthly lease payments will continue to be paid with federal funds; and be it

FURTHER RESOLVED: That the proposed lease payments during the term of the lease shall not exceed One Million, Nine Hundred Forty-Two Thousand, Eight Hundred Twenty-Four Dollars (\$1,942,824.00); and be it

FURTHER RESOLVED: That all lease payments for the landlord's warehouse located at 9812 Bigge Street will be funded through the FEMA US&R Cooperative Agreement, FEMA Fund (2124), Special Operation Division (20815), in FEMA Grants Revenue Accounts (46129), US&R Project (TBD, adjusted annually), Task (2124.PS18) & Award (TBD, adjusted annually), Rental Land and Building Account (53211); and be it

FURTHER RESOLVED: That all agreements executed pursuant to the Resolution shall be approved as to form and legality by the Office of the City Attorney and copies shall be placed on file in the City Administrator's Office.

IN COUNCIL, OAKLAND, CALIFORNIA,

OCT 06 2020

PASSED BY THE FOLLOWING VOTE:

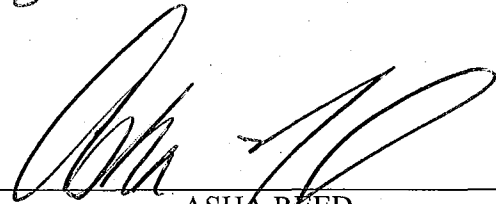
AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR,
THAO AND PRESIDENT KAPLAN — 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

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