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CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING ORDINANCE NO. 13711 C.M.S. AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH THE BLACK CULTURAL ZONE DEVELOPMENT CORPORATION (BCZ) FOR THE ARROYO VIEJO RECREATION CENTER FOR FOOD DISTRIBUTION AND RENTABLE COMMERCIAL KITCHEN (FOOD HUB) FOR A THREE YEAR TERM LEASE WITH THREE 2-YEAR OPTIONS AT A RATE OF ZERO DOLLARS (\$0.00) PER YEAR IN EXCHANGE FOR TENANT IMPROVEMENTS; AND MAKING FINDINGS THAT THE LEASE FOR BELOW FAIR MARKET VALUE IS IN THE BEST INTEREST OF THE CITY

WHEREAS, the City of Oakland owns the Arroyo Viejo Park, a 16-acre real property located at 7701 Krause Avenue in District 6 in East Oakland, which includes an approximately 1,600 square foot community center and commercial kitchen space, as well as additional cold storage space (Premises), and is more commonly known as the Arroyo Viejo Recreation Center (Property); and

WHEREAS, on October 19, 2021, the City Council adopted Resolution No. 88876 C.M.S. recognizing that a commercial kitchen at the Property is part of a larger ecosystem of food economy that currently exists in Oakland and accepting a gift of commercial kitchen equipment and in-kind services for such equipment valued in an amount not to exceed One Hundred Thousand Dollars (\$100,000) from Google for the Property; and

WHEREAS, the Property has two kitchen spaces, one which is currently used for programming for recreation center activities and one that is currently being used as a commercial kitchen, in addition to an adjacent food distribution space; and

WHEREAS, Governor Newsom approved the State Budget Act of 2022, which authorizes the California Department of Social Services (CDSS) to allocate Three Million Dollars (\$3,000,000) for the ALL IN Eats/Food Hub, a portion of which the County of Alameda may utilize to support capital expenses and construction management at the ALL IN Eats Arroyo Viejo Food Hub subject to approval by the Alameda County Board of Supervisor; and

WHEREAS, the Alameda County Deputy Sheriff’s Activities League (DSAL), a California nonprofit corporation, was anticipated to receive approximately One Million Dollars (\$1,000,000) from the Alameda County Board of Supervisors for capital expenses and construction management at the Arroyo Viejo Recreation Center to create a food distribution space for food recovery and rentable commercial kitchen space (Food Hub) at the Property; and

WHEREAS, operation of a Food Hub with food distribution space for food recovery will further consistency with Chapter 8.28 “Adoption by the City of Oakland of the Alameda County Waste Management Authority (WMA) Organics Reduction and Recycling Ordinance (WMA Ordinance 2021-02)” of the Oakland Municipal Code to further consistency with Senate Bill (SB) 1383 (2021), commonly referred to as the “Short-Lived Climate Pollutants Reduction Act of 2016,” to establish methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants; and

WHEREAS, DSAL initially identified the Premises at the Property that with additional repairs and improvements would serve as a Food Hub in Alameda County; and

WHEREAS, DSAL initially partnered with the Black Cultural Zone Development Corporation (BCZ), a California nonprofit corporation, which was awarded an approximately Six Hundred Thousand Dollars (\$600,000) grant from the Stupski Foundation to assist with the operation and management of a commercial kitchen space for local food entrepreneurs as part of BCZ’s vision of bringing together thriving economic opportunities, entrepreneurship, and healthy local food connections with East Oakland residents; and

WHEREAS, the City Council adopted Ordinance No. 13711 C.M.S. on December 6, 2022, authorizing a lease agreement of the Premises to DSAL for a Food Hub in partnership with BCZ; and

WHEREAS, while the original partnership was initiated by DSAL, which aptly recognized BCZ as a valuable collaborator, DSAL has since exited the project, thereby transferring all Food Hub funds and associated duties and responsibilities to BCZ; and

WHEREAS, the non-exclusive and temporary use of the Premises by BCZ for community benefitting uses, does not authorize development, and thus is not a disposition of surplus property under Government Code section 54220 et seq.; 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; and

WHEREAS, entering into a lease agreement with BCZ at a rate of Zero Dollars (\$0.00) per year is in the best interest of the City due to the substantial public benefits provided by BCZ through its operation and management of the Food Hub and its contribution to the economic development and community welfare of East Oakland residents; and

WHEREAS, the City Administrator is authorized to negotiate and execute the lease agreement with BCZ for the leasing of an approximately 1,600 square foot community center and commercial kitchen space, as well as additional cold storage space, at the City-owned real property located at 7701 Krause Avenue in exchange for tenant improvements for a term of three years with three 2-year options to renew; and

WHEREAS, the City desires to enter into a lease with BCZ in accordance with these terms; 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 the lease agreement with the Black Cultural Zone Development Corporation (BCZ), a California nonprofit corporation, for the leasing of an approximately 1,600 square foot community center and commercial kitchen space, as well as additional cold storage space, at the City-owned real property located at 7701 Krause Avenue in exchange for tenant improvements for a term of three years with three 2-year options to renew.

SECTION 2. Staff costs for processing the proposed new lease are covered by the Master Fee Schedule and will be paid by the lessee. The lessee will provide capital expenses and construction management for tenant improvements estimated at approximately One Million Dollars (\$1,000,000) for approximately 1,600 square feet of space to serve as a Food Hub at the Property.

SECTION 3. The City Administrator is hereby authorized to negotiate Lessee's responsibility for its pro rata share of utilities and related expenses associated with operating the Food Hub at the Property as a designated percentage of Lessee's annual operating revenue to support the Food Hub and minimize the City's out-of-pocket costs from leasing the Property.

SECTION 4. The City Council finds and determines that the license of the Premises for less than its fair market rental value is in the best interests of the City pursuant to OMC Section 2.42.110, because BCZ will activate and improve Arroyo Viejo Recreation Center and provide substantial public benefits through its operation and management of the Food Hub and its contribution to the economic development and community welfare of East Oakland residents.

SECTION 5. The City Council hereby authorizes the City Administrator, without returning to City Council, to negotiate and execute (a) such other additions, amendments or other modifications to the foregoing document that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions contemplated by this Ordinance, to be conclusively evidenced by the execution and delivery by the City Administrator of any such amendments; and (b) such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate and consummate the transactions in accordance with this Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

SECTION 6. The lease agreement and any other documents necessary for the leasing of the property shall be approved as to form and legality by the City Attorney's Office and a copy shall be filed with the Office of the City Clerk.

SECTION 7. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that this action complies with the California Environmental Quality Act (CEQA) because this action on the part of the City is exempt from CEQA pursuant to Section 15301 (existing facilities).

SECTION 8. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 9. 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 10. 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, KALB, KAPLAN, REID, JENKINS, RAMACHANDRAN 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 AMENDING ORDINANCE NO. 13711 C.M.S. AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH THE BLACK CULTURAL ZONE DEVELOPMENT CORPORATION (BCZ) FOR THE ARROYO VIEJO RECREATION CENTER FOR FOOD DISTRIBUTION AND RENTABLE COMMERCIAL KITCHEN (FOOD HUB) FOR A THREE YEAR TERM LEASE WITH THREE 2-YEAR OPTIONS AT A RATE OF ZERO DOLLARS (\$0.00) PER YEAR IN EXCHANGE FOR TENANT IMPROVEMENTS; AND MAKING FINDINGS THAT THE LEASE FOR BELOW FAIR MARKET VALUE IS IN THE BEST INTEREST OF THE CITY

An Ordinance authorizing the City Administrator to negotiate and execute the lease agreement with the Black Cultural Zone Development Corporation (BCZ), a California nonprofit corporation, for the leasing of two rooms at the City-owned real property located at 7701 Krause Avenue in exchange for approximately One Million Dollars (\$1,000,000) in tenant improvements for a term of three years with three 2-year options to renew to operate a Food Hub.