

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2014 DEC -4 PM 2:21

Approved as to Form and Legality

OAKLAND CITY COUNCIL


Deputy City Attorney

ORDINANCE No. 13288 C.M.S.

ORDINANCE AUTHORIZING A LICENSE AGREEMENT WITH THE MONTCLAIR TENNIS ASSOCIATION FOR USE OF TENNIS COURTS AND OTHER PROPERTY AT MONTCLAIR PARK FOR A FIVE YEAR TERM WITH TWO THREE-YEAR OPTIONS TO RENEW WITHOUT RETURNING TO COUNCIL

WHEREAS, the City is the owner of real property located in Montclair Park commonly known as the “upper tennis courts at Montclair Park” consisting of two tennis courts, viewing area, hitting wall, storage shed, and ten off-street parking stalls (hereinafter the “Licensed Area”); and

WHEREAS, the Montclair Tennis Association (“MTA”) is a local nonprofit organization; and

WHEREAS, the City has a long standing relationship with MTA dating back to 1965, and since that time MTA has been a steward of the Licensed Area collecting and depositing monthly parking stall fees to be held “in trust” to be used for improvements, maintenance, landscaping and upkeep, and for development of City of Oakland Montclair Village area public tennis facilities; and

WHEREAS, the City desires to continue to operate public tennis courts and adjacent parking stalls at Montclair Park with the stewardship of MTA; and

WHEREAS, MTA desires to continue having use of the Licensed Area for the purpose of promoting the sport of tennis to all Oakland residents; and

WHEREAS, MTA has agreed to continue its stewardship of the License Area keeping it in good order and clear of debris and including the management and collection of rental fees for ten off-street parking spaces; and

WHEREAS, MTA will forward all parking fees to the City to be held “in trust” and to be used for the improvement, maintenance, landscaping and upkeep, and for the development of City of Oakland Montclair Village area public tennis facilities; and

WHEREAS, Section 219(6) of the City Charter requires a Council ordinance in order to authorize the conveyance or lease for longer than one year of real property of the City; and

WHEREAS, Ordinance No. 11722 C.M.S. authorizes the rental or lease of City real property to providers of in-kind services to the City in lieu of monetary rent if the value of the in-kind services results in a net benefit to the City that is equal to or exceeds 75% of the fair market rent for the property; and

WHEREAS, the City Administrator has determined that the value of the in-kind services provided by MTA results in a net benefit to the City that is equal to or exceeds 75% of the fair market rent for the Licensed Area; and

WHEREAS, the proposed license of the Licensed Area to MTA is in the best interest of the City of Oakland because MTA's purpose is to provide and promote tennis activities to the public, and MTA has proved to be good stewards of the Licensed Area, in addition to supporting many other Oakland tennis-related causes, financially and with volunteer time and energy;

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

SECTION 1. The Oakland City Council authorizes the City Administrator, or his or her designee, to negotiate and enter into a license agreement with Montclair Tennis Association for use of the Licensed Area at no cost of license fees or rent to MTA, in return for MTA's stewardship, management and collection of rental fees for ten off-street parking spaces, for a term of five years with two additional three year options to renew by mutual agreement of the parties.

SECTION 2. The City Administrator, or his or her designee, is hereby authorized to approve any subsequent amendments, modifications, or extensions of said agreement, including exercising either of the options to renew, without returning to Council, except those increasing the term of the agreement beyond the two options to renew.

SECTION 3. Based on the information provided above and in the report accompanying this Ordinance, the City Council finds that the value of the in-kind services provided by MTA results in a net benefit to the City that is equal to or exceeds 75% of the fair market rent for the Licensed Area.

SECTION 4. The City Council hereby waives any requirement for competitive bidding of this license.

SECTION 5. The proposed license agreement will be approved by the Oakland City Attorney as to form and legality, and a copy will be on file in the Office of the City Clerk.

SECTION 6. 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 7. 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.

JAN 20 2015

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, **CAMPBELL WASHINGTON, AND GUILLEN - 8**

NOES -

ABSENT -

ABSTENTION -

ATTEST

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

Introduction Date
JAN 06 2015

Date of Attestation: January 21, 2015

NOTICE AND DIGEST

ORDINANCE AUTHORIZING A LICENSE AGREEMENT WITH THE MONTCLAIR TENNIS ASSOCIATION FOR USE OF TENNIS COURTS AND OTHER PROPERTY AT MONTCLAIR PARK FOR A FIVE YEAR TERM WITH TWO THREE YEAR OPTIONS TO RENEW WITHOUT RETURNING TO COUNCIL

This Ordinance would authorize a five-year license agreement with the Montclair Tennis Association for the use and rental of tennis courts, ten off-street parking spaces, and other property at Montclair Park, with two options to renew the license for three years each, at no rent or license fee, in return for certain in-kind services.