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APPROVED AS TO FORM AND LEGALITY

FILED
INTRODUCED BY COUNCIL MEMBER CARROLL FIFE
OFFICE OF THE CITY CLERK
OAKLAND


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13714 C.M.S.

ORDINANCE (A) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE LEASE AGREEMENT WITH THE DR. HUEY P. NEWTON FOUNDATION FOR THE SPACE LOCATED AT 150 FRANK H. OGAWA PLAZA, SUITE 1C (LIONEL J. WILSON BUILDING) TO (1) EXTEND THE TERM OF THE LEASE FOR THREE YEARS WITH ONE TWO-YEAR OPTION TO RENEW; AND (2) WAIVE OAKLAND MUNICIPAL CODE (OMC) SECTION 2.42.230 TO REDUCE RENT BELOW \$1.25 PER SQUARE FOOT AND SETTING LEASE PAYMENTS TO \$1,963.82 PER MONTH DUE TO CULTURAL AND SOCIAL BENEFITS TO THE COMMUNITY PURSUANT TO OMC SECTION 2.42.110; AND (B) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the City of Oakland (City) owns a Two Thousand Six Hundred Thirty-Six square foot (2,636 sf) property located at 150 Frank H. Ogawa Plaza, Suite 1C (Lionel J. Wilson Building), also known as 1427 Broadway (Property); and

WHEREAS, the Dr. Huey P. Newton Foundation (Foundation), founded and headquartered in Oakland, works to preserve and promote the true legacy of the Black Panther Party through various activities, including collecting oral histories, curating exhibits, and organizing community events; and

WHEREAS, on July 19, 2022, the City Council adopted Resolution No. 89344 C.M.S. (1) approving the City Administrator to negotiate and enter into a month-to-month lease agreement with the Dr. Huey P. Newton Foundation for the Property to serve as an office, retail, and community hub dedicated to preserving history and advancing culture for a term not to exceed twelve (12) months in an amount not to exceed Four Thousand One Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$4,166.67) per month or Fifty Thousand Dollars (\$50,000) per year as authorized by OMC Section 2.42.230; and (2) awarding a grant to the Dr. Huey P. Newton Foundation in an amount not to exceed Fifty Thousand Dollars (\$50,000) for a term not to exceed Twelve (12) months for lease support as an eligible use of the original Two Hundred Fifty Thousand Dollars (\$250,000) of General Purpose Funds designated for the Black Arts Movement Business District in the 2021-2023 Biennial Budget pursuant to Resolution No. 88717 C.M.S.; and

WHEREAS, in November 2022, the Foundation executed a Lease Agreement with the City pursuant to Resolution No. 89344 C.M.S.; and

WHEREAS, in Section 219(6) of the Charter, leases 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, real property must be 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 has made a finding and determination that the lease of the property for less than its fair market rental value is in the best interests of the City; and

WHEREAS, in the case of 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 City Administrator may only execute a lease for tenants in the Lionel J. Wilson Building at a minimum monthly triple net rent of \$1.25 per square foot; and

WHEREAS, the City has recognized the important contributions of the Black Panther Party and designated October 24th as Dr. Huey P. Newton Day in the City of Oakland; and

WHEREAS, the Property is located within the designated BAMBD 14th Street corridor, and the Foundation needs a long-term brick and mortar space that can serve as office space, studio, and community hub to bring the community together and capture the stories of many people who are in their later years of life to elevate the history of the Black Panther Party for an intergenerational audience of Oaklanders and visitors to the City; and

WHEREAS, the community hub will activate history by allowing community members to engage with history and politics through workshops, lectures, and service programs and facilitate conversations between former members of the Black Panther Party and community members, Community Based Organizations (CBOs), and elected officials; and

WHEREAS, the Foundation will also partner with CBOs to deliver services to the community similar to those carried out by the Black Panther Party, including free food, free clothing, free medical services, educational tools, and housing information; and

WHEREAS, the Foundation seeks to be the cornerstone of the BAMBD 14th Street corridor, allowing businesses, organizations, and community leaders to use the space to catalyze future development; and

WHEREAS, the City desires to enter into a lease amendment with the Foundation 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 a lease amendment with the Dr. Huey P. Newton Foundation, a California nonprofit corporation, for the leasing of an approximately 2,636 square foot property located at 150 Frank H. Ogawa Plaza, Suite 1C (Lionel J. Wilson Building), to extend the term of the lease for three years with one two-year option to renew; and (2) waive OMC Section 2.42.230 to reduce rent below \$1.25 per square foot and setting lease payments to \$1,963.82 per month (Rent \$1,647.50 and Common Area Maintenance (CAM) \$316.32) due to cultural and social benefits to the community pursuant to OMC Section 2.42.110.

SECTION 2. The City Council finds and determines that the lease of the Property in the BAMBD for less than its fair market rental value is in the best interests of the City, because the Foundation will provide social and cultural benefits to the City and community at large by (1) partnering with Community Based Organizations (CBOs) to deliver free food, free clothing, free medical services, educational tools, and housing information; (2) creating a community hub that will elevate the history of the Black Panther Party for an intergenerational audience of Oaklanders and visitors to the City and facilitate conversations between former members of the Black Panther Party, community members, CBOs, and elected officials; and (3) becoming a cornerstone of the BAMBD 14th Street corridor, allowing businesses, organizations, and community leaders to use the space to catalyze future development.

SECTION 3. 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 4. 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 5. 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 6. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 7. 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 8. 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,

DEC 20 2022

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, ~~WATSON~~ TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS ~~7~~

NOES – ~~0~~

ABSENT – ~~0~~

ABSTENTION – ~~0~~

1 EXCUSED – ~~Reed~~

ATTEST:



ASHA REED

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

Introduction Date

DEC 06 2022

Date of Attestation:

December 22, 2022

NOTICE AND DIGEST

ORDINANCE (A) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE LEASE AGREEMENT WITH THE DR. HUEY P. NEWTON FOUNDATION FOR THE SPACE LOCATED AT 150 FRANK H. OGAWA PLAZA, SUITE 1C (LIONEL J. WILSON BUILDING) TO (1) EXTEND THE TERM OF THE LEASE FOR THREE YEARS WITH ONE TWO-YEAR OPTION TO RENEW; AND (2) WAIVE OAKLAND MUNICIPAL CODE (OMC) SECTION 2.42.230 TO REDUCE RENT BELOW \$1.25 PER SQUARE FOOT AND SETTING LEASE PAYMENTS TO \$1,963.82 PER MONTH DUE TO CULTURAL AND SOCIAL BENEFITS TO THE COMMUNITY PURSUANT TO OMC SECTION 2.42.110; AND (B) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

An Ordinance authorizing the City Administrator to negotiate and execute a lease amendment with the Dr. Huey P. Newton Foundation, a California nonprofit corporation, for the leasing of an approximately 2,636 square foot property located at 150 Frank H. Ogawa Plaza, Suite 1C (Lionel J. Wilson Building), also known as 1427 Broadway, to extend the term of the lease for three years with one two-year option to renew and setting lease payments to \$1,963.82 per month due to cultural and social benefits to the community.