

Farrah Hussein
Farrah Hussein (Feb 12, 2025 11:13 PST)
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE: (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE WITH FLASHPARKING, INC. A MASTER SITE LICENSE AGREEMENT (MSLA) TO INSTALL AND OPERATE ELECTRIC VEHICLE FAST CHARGING INFRASTRUCTURE FOR AN INITIAL TERM OF SIX (6) YEARS FROM THE DATE OF THE FIRST OPERATIONAL CHARGER WITH TWO 4-YEAR OPTIONS TO RENEW FOR A TOTAL NOT TO EXCEED COMMERCIAL OPERATION TERM OF FOURTEEN (14) YEARS AT A RATE OF ZERO DOLLARS (\$0.00) PER YEAR FOR THE FOLLOWING PARKING FACILITIES:

- A. 18TH STREET UPTOWN LOT LOCATED AT 1800 SAN PABLO AVENUE;**
- B. FRANKLIN PLAZA GARAGE LOCATED AT 1719 FRANKLIN STREET;**
- C. FRANK G MAR / 1200 HARRISON GARAGE LOCATED AT 278 12TH STREET;**
- D. MARRIOTT/CONVENTION CENTER GARAGE LOCATED AT 550 11TH STREET;**
- E. OAKLAND MUSEUM OF CALIFORNIA GARAGE LOCATED AT 1000 OAK ST;**
- F. PARKWAY LOT LOCATED AT 341 EAST 19TH STREET;**
- G. PACIFIC RENAISSANCE PLAZA GARAGE LOCATED AT 388 9TH STREET; AND**
- H. TELEGRAPH PLAZA GARAGE LOCATED AT 2100 TELEGRAPH AVENUE**

(2) ACCEPTING AND APPROPRIATING REVENUE IN THE AMOUNT OF FIFTY PERCENT (50%) OF NET PROFITS FROM THE MSLA FOR THE PURPOSE OF RECOVERING STAFF COSTS AND IMPROVING EV INFRASTRUCTURE; AND

(3) MAKING FINDINGS THAT THE MSLA FOR A BELOW FAIR MARKET VALUE ARE IN THE BEST INTEREST OF THE CITY; AND

(4) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

WHEREAS, in July 2020 the City Council adopted the 2030 Equitable Climate Action Plan (ECAP), pursuant to Resolution No. 88627 C.M.S. which establishes actions that the City and its partners will take to equitably reduce Oakland’s climate emissions 56 percent by 2030 compared to 2005 emissions and adapt to a changing climate. The ECAP included recommendation TLU-5: “Create a zero-emission vehicle (ZEV) action plan”; and

WHEREAS, the City Council adopted the Zero Emission Vehicle (ZEV) Action Plan in October 2022, which establishes the City’s roadmap to reduce greenhouse gas (GHG) emissions from transportation and support a transition to 100 percent zero-emission vehicles by 2035 and a target of carbon neutrality by 2045; and

WHEREAS, This project directly supports several of the ZEV plan’s recommendations, including CL-10 “Incentivize the use of ZEV’s at City-owned lots and garages”, and

WHEREAS, potential electric vehicle (EV) drivers in Oakland may be discouraged from buying or leasing EVs due to the unavailability of publicly available fast charging stations; and

WHEREAS, the State of California has set the goal of placing 1.5 million zero-emission vehicles on California roads by 2025 and 5 million by 2030; and

WHEREAS, Governor Gavin Newsom signed Executive Order N-79-20 in 2020, mandating that 100 percent of new in-state light duty passenger vehicles sales are zero-emission by 2035; and

WHEREAS, in Section 219(6) of the Charter, the license or lease 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, 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, this license of portions of up to eight city-owned lots and garages at below market fees is in the public's best interest, as new EV charging infrastructure is essential to meeting the goals of the ECAP and ZEV Action plan, as described in the environmental and equity outcomes outlined in the staff report; and

WHEREAS, FlashParking, Inc. (Flash) is a technology company that uses a digital ecosystem to improve the parking and electric vehicle charging experience; and

WHEREAS, Flash is partnering with Intertie to develop at least two integrated battery energy storage systems (BESS) for the proposed electric vehicle fast charging infrastructure. Intertie specializes in renewable energy solutions, focusing on solar power, battery storage, and smart microgrids; and

WHEREAS, Flash proposes to install and operate electric vehicle fast charging infrastructure on properties owned or controlled by the City at no cost to the City, which would otherwise cost the City approximately Five Million Eight Hundred Thousand Dollars (\$5,800,000) total; and

WHEREAS, the MSLA will include provisions and requirements related to community engagement, insurance requirements, bonds and termination for failure to perform, breach of contract, or changes in law that make the agreement impractical; and

WHEREAS, Flash will strive to create work development opportunities for Oakland residents and small local businesses by hiring local electrical contractors to perform the installation work to activate the stations; and

WHEREAS, the proposed partnership with Flash would enable the City to greatly increase the amount of EV charging stalls available at City-owned parking facilities; and

WHEREAS, The City shall receive fifty percent (50%) of Net Profits, which shall be defined as the net profits from charging after subtracting energy costs, a 5% credit card transaction fees, taxes and other any actual overhead fees, taxes and transaction costs; and

WHEREAS, the MSLA will require Flash to provide annual reports detailing, at a minimum, usage trends, operability, local hiring and all information necessary to calculate revenue sharing payments, including energy costs, credit card transaction fees, charging revenue, taxes, and any actual overhead and transaction fees incurred; and

WHEREAS, the proposed electric vehicle infrastructure are improvements, renovations, or updates to an existing building and do not constitute a disposition under the California Surplus Land Act, pursuant to Government Code Section 54221(d)(2)(B) and Section 102(i)(2)(B)(iii) of the California Housing and Community Development Updated Surplus Land Act Guidelines; and

WHEREAS, the proposed installation of electric vehicle fast charging infrastructure on the identified municipal sites is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations sections 15061(b)(3) (no significant effect on the environment), 15301 (existing facilities), 15303 (construction or conversion of small structures), 15308 (actions by regulatory agencies for the protection of the environment), and 15183 (projects consistent with General Plan and Zoning); and

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

SECTION 1. That the City Administrator is hereby authorized to negotiate and execute a master site license agreement with FlashParking, Inc., to install and operate multiple electric vehicle fast charging infrastructure at no cost to the City for an initial commercial operation term of six (6) years from the date of the first operational charger with two 4-year options to renew for a total not to exceed commercial operation term of fourteen (14) years, at a below market rent rate of Zero Dollars (\$0.00) per year at the following eight (8) City of Oakland parking facilities:

- a) 18th Street Uptown Lot located at 1800 San Pablo Avenue;
- b) Franklin Plaza Garage located At 419 1719 Franklin Street;
- c) Frank G Mar / 1200 Harrison Garage located at 278 12th Street;
- d) Marriott/Convention Center Garage located at 550 11th street;
- e) Oakland Museum of California garage located at 1000 Oak Street;
- f) Parkway Lot located at 341 East 19th Street;
- g) Pacific Renaissance Plaza Garage located at 388 9th Street; and
- h) Telegraph Plaza Garage Located At 2100 Telegraph Avenue.

SECTION 2. The City Council finds and determines that the license of the eight (8) identified municipal facilities for less than its fair market rental value is in the best interests of the City pursuant to OMC Section 2.42.110, because (1) Flash will install and operate electric vehicle fast charging infrastructure at no cost to the City and would otherwise cost the City approximately \$5.8 million dollars total; (2) Flash will strive to create work development opportunities for Oakland residents and small local businesses by hiring local electrical contractors to perform the installation work and activate the stations; and (3) Installing electric vehicle fast charging infrastructure at City parking facilities will advance the City's 2030 Equitable Climate Action Plan, 2022 ZEV Action Plan and the State's climate goals.

SECTION 3. The City Council accepts revenue in the amount of Fifty Percent (50%) of Net Profits from the MSLA for the purpose of recovering staff costs and improving EV Infrastructure.

SECTION 4. Any such funds received from the MSLA will be budgeted in Fund (1750), Organization (35247), and Account 45729, and appropriated after demonstration of consistent receipt of designated revenues for the new revenue source with Finance Department approval.

SECTION 5. The City Council finds and declares that the proposed MSLA does not constitute a disposition requiring compliance with the Surplus Land Act, as defined in California Government Code Section 54221(d), because the proposed electric vehicle fast charging infrastructure are "improvements, renovations, or updates to an existing building" that does not constitute a disposition under California Housing and Community Development Update Surplus Land Act Guidelines Section 102(i)(2)(B)(iii).

SECTION 6. The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14

California Code of Regulations sections 15061(b)(3) (no significant effect on the environment), 15301 (minor alterations to existing facilities), 15303 (construction or conversion of small structures), 15308 (actions by regulatory agencies for the protection of the environment), and 15183 (projects consistent with General Plan and Zoning). The City Administrator or designee is hereby directed to file a Notice of Exemption with the appropriate agencies.

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,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, HOUSTON, KAPLAN, RAMACHANDRAN, UNGER, AND
PRESIDENT PRO TEMPORE GALLO

NOES –

ABSENT – COUNCIL PRESIDENT JENKINS (serving as Mayor pursuant to Charter Section
303)

ABSTENTION –

ATTEST: _____

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

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE: (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE WITH FLASHPARKING, INC. A MASTER SITE LICENSE AGREEMENT (MSLA) TO INSTALL AND OPERATE ELECTRIC VEHICLE FAST CHARGING INFRASTRUCTURE FOR AN INITIAL TERM OF SIX (6) YEARS FROM THE DATE OF THE FIRST OPERATIONAL CHARGER WITH TWO 4-YEAR OPTIONS TO RENEW FOR A TOTAL NOT TO EXCEED COMMERCIAL OPERATION TERM OF FOURTEEN (14) YEARS AT A RATE OF ZERO DOLLARS (\$0.00) PER YEAR FOR THE FOLLOWING PARKING FACILITIES:

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(4) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

This Ordinance authorizes the City Administrator to negotiate and execute with FlashParking, Inc., a master site license agreement to install and operate electric vehicle fast charging infrastructure for an initial term of six (6) years with two 4-year options to renew for a total not to exceed commercial operation term of fourteen (14) years, at a rate of Zero Dollars (\$0.00) per year for the following eight (8) City parking facilities:

- a) 18th Street Uptown Lot located at 1800 San Pablo Avenue;
- b) Franklin Plaza Garage located At 419 1719 Franklin Street;
- c) Frank G Mar / 1200 Harrison Garage located at 278 12th Street;
- d) Marriott/Convention Center Garage located at 550 11th street;
- e) Oakland Museum of California garage located at 1000 Oak Street;
- f) Parkway Lot located at 341 East 19th Street;
- g) Pacific Renaissance Plaza Garage located at 388 9th Street; and
- h) Telegraph Plaza Garage Located At 2100 Telegraph Avenue.

This Ordinance makes findings that the licensees for a below fair market value are in the best interests of the City and adopts appropriate California Environmental Quality Act (CEQA) findings.