



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE AMENDING ORDINANCE NO. 13592, WHICH AUTHORIZED A LICENSE WITH COVENANT HOUSE ON CALTRANS PROPERTY TO BE LEASED BY THE CITY AT 3<sup>RD</sup> STREET AND PERALTA STREET (PORTION OF APN 18-380-3-5), TO INSTEAD AUTHORIZE THE CITY ADMINISTRATOR OR DESIGNEE TO ENTER INTO A LICENSE WITH HOUSING CONSORTIUM OF THE EAST BAY, FOR A TERM UP TO THREE YEARS ON THE SAME SITE, AT NO MONTHLY RENT IN EXCHANGE FOR PROVISION OF EMERGENCY SHELTER AND SERVICES; AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the City Administrator has identified property owned by Caltrans, located at 3rd Street and Peralta Street, depicted on Exhibit A attached hereto and incorporated herein (the "Caltrans Property"), as a suitable site for operation of emergency shelter for unsheltered individuals, and will enter into a three-year lease with Caltrans for such use pursuant to the City Administrator's delegated authority under Section 2.41.050 of the Oakland Municipal Code ("OMC"); and

**WHEREAS**, on May 12, 2020, the City Council adopted Ordinance No. 13592, authorizing, among other programs, the City Administrator to enter into a three-year license and professional services agreement with Covenant House to operate a program for transitional aged youth in City-owned trailers on the Caltrans Property; and

**WHEREAS**, the license and professional services agreement with Covenant House have not been executed because an alternate site was identified for this purpose; and

**WHEREAS**, the City plans to purchase small shelter units with doors, windows, and electricity ("Pallet Shelters") to house unsheltered individuals on public land; and

**WHEREAS**, the City Administrator desires to enter into a license with Housing Consortium of the East Bay ("HCEB"), for a term up to three years at no monthly rent, to operate an interim emergency shelter program for unsheltered residents using the City's Pallet Shelters or other structures; and

**WHEREAS**, the City Administrator has prepared a Summary of License Terms, attached hereto as Exhibit B and incorporated herein, for the proposed license for shelter and services to unsheltered residents on the Caltrans Property (the “Summary of Lease Terms”); and

**WHEREAS**, OMC Section 2.42.110 (a) authorizes the City to enter into a lease or license of real property for consideration less than the property’s fair market value if the City Council makes a finding and determination that the lease of the property for less than its fair market value is in the best interests of the City and (b) provides that the City Council may consider the value of in-kind services to the City or the community at large, including social and cultural benefits to the community, in making the required finding and determination; and

**WHEREAS**, staff has determined that, each as a separate and independent basis, this action is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations of Land), 15311 (Accessory Structures), 15322 (In Fill Development Projects), 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), and that no exceptions to the categorical exemptions apply, and is also exempt under the statutory CEQA exemption embodied in Government Code Section 8698.4(a)(4); and

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

**SECTION 1.** The City Council finds and determines that the foregoing recitals are true and correct and an integral part of the City Council’s decision, and hereby adopts such recitals as findings.

**SECTION 2.** The City Council finds and determines the adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”), pursuant to CEQA Guidelines sections 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304 (Minor Alterations of Land), 15311 (Accessory Structures), 15322 (In Fill Development Projects), 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), and that no exceptions to the categorical exemptions apply, and is also exempt under Government Code section 8698.4(a)(4). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

**SECTION 3.** The City Council hereby amends Ordinance No. 13592 to authorize the City Administrator to (a) negotiate, enter into, and execute a license for the use of Caltrans Property and City-owned Pallet Shelters or other structures by HCEB, instead of Covenant House, for a maximum term of three years, at no monthly rent, on substantially the same terms as described on Exhibit B, and (b) to allow improvements to and use of the premises in compliance with Appendix O to the 2019 California Building Code (O.M.C. § 15.04.3.2.0950), in order to serve unsheltered residents.

**SECTION 4.** Pursuant to OMC Section 2.42.110, and based on the value of the services discussed above and in the City Administrator’s report accompanying this Ordinance, the City Council hereby finds and determines that offering public land for interim emergency shelter and services for unsheltered residents for less than fair market rental value is in the best interests of the City.

**SECTION 5.** The City Administrator, or his or her designee, is authorized and directed to execute any and all documents, consistent with the terms and conditions of this Ordinance.

**SECTION 6.** All documents shall be approved as to form and legality by the Office of the City Attorney.

**SECTION 7.** 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.** The Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO 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. 13592, WHICH AUTHORIZED A LICENSE WITH COVENANT HOUSE ON CALTRANS PROPERTY TO BE LEASED BY THE CITY AT 3<sup>RD</sup> STREET AND PERALTA STREET (PORTION OF APN 18-380-3-5), TO INSTEAD AUTHORIZE THE CITY ADMINISTRATOR OR DESIGNEE TO ENTER INTO A LICENSE WITH HOUSING CONSORTIUM OF THE EAST BAY, FOR A TERM UP TO THREE YEARS ON THE SAME SITE, AT NO MONTHLY RENT IN EXCHANGE FOR PROVISION OF EMERGENCY SHELTER AND SERVICES; AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

This Ordinance would authorize the City Administrator to negotiate and enter into a license with Housing Consortium of the East Bay (“HCEB”) on land owned by Caltrans that will be leased by the City at 3<sup>rd</sup> Street and Peralta Street, for a term up to three years at no monthly rent in exchange for the value of the services provided to unsheltered residents and the City at large. The Ordinance would amend Ordinance No. 13592 to authorize the license with HCEB instead of a license to Covenant House on this property. This Ordinance makes exemption findings under the California Environmental Quality Act.