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APPROVED AS TO FORM AND LEGALITY

FILED
OFFICE OF THE CITY CLERK
OAKLAND

H.C.C.

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 9077 9th C.M.S.

A RESOLUTION AUTHORIZING A LEASE AGREEMENT BETWEEN THE FRUITVALE DEVELOPMENT CORPORATION AS LANDLORD AND THE CITY OF OAKLAND AS TENANT FOR A 15,119 SQUARE FOOT PREMISES LOCATED AT 3301 E. 12TH STREET, SUITE 275 KNOWN AS FRUITVALE TRANSIT VILLAGE FOR ONGOING USE AS THE CÉSAR E. CHÁVEZ LIBRARY FOR AN INITIAL TERM OF FIVE (5) YEARS EFFECTIVE JUNE 1, 2025, WITH TWO OPTIONS TO RENEW FOR FIVE (5) YEARS EACH, AT AN INITIAL RATE OF ONE DOLLAR AND TWENTY-FIVE CENTS (\$1.25) PER SQUARE FOOT OR EIGHTEEN THOUSAND EIGHT HUNDRED NINETY-EIGHT DOLLARS AND SEVENTY-FIVE CENTS (\$18,898.75) PER MONTH WITH AN ANNUAL INCREASE MATCHED TO THE CONSUMER PRICE INDEX, SUBJECT TO A MINIMUM OF THREE PERCENT (3%) AND A MAXIMUM OF FIVE PERCENT (5%) PER YEAR, PLUS THE CITY'S 11.14% PROPORTIONATE SHARE OF MONTHLY COMMON AREA EXPENSES ESTIMATED AT EIGHTY-FOUR CENTS (\$0.84) PER SQUARE FOOT OR TWELVE THOUSAND SIX HUNDRED NINETY-NINE DOLLARS AND NINETY-SIX CENTS (\$12,699.96) PER MONTH, TO BE RECONCILED ANNUALLY, WITH AN INITIAL ONE-TIME PAYMENT OF THREE HUNDRED FORTY THOUSAND ONE HUNDRED SEVENTY-SEVEN DOLLARS AND FIFTY CENTS (\$340,177.50) FOR BACK RENT FROM DECEMBER 2023 TO MAY 2025; AND MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the Spanish Speaking Unity Council of Alameda County, Inc. ("Unity Council") is a non-profit social equity development corporation with over 60 years of history in the Fruitvale neighborhood of Oakland; and

WHEREAS, in 1996, the Unity Council formed Fruitvale Development Corporation, Inc. ("Property Owner"), to develop affordable housing, commercial, transit and other facilities to combat the deterioration of the Fruitvale area in Oakland, and Unity Council controls Property Owner; and

WHEREAS, in 2004, Property Owner completed construction of the Fruitvale Village, a transit-oriented mixed-used development in the Fruitvale area; and

WHEREAS, in 2002, the City executed a lease (“Lease”) with Property Owner for use of an approximately 15,120 square foot space (“Premises”) located at 3301 E. 12th Street, Suite 271 in the Fruitvale Village for a twenty-year initial term (“Initial Term”) with two five-year options to extent (“Extended Terms”) pursuant to Resolution No. 77296 C.M.S.; and

WHEREAS, the City pre-paid the entire \$4.5 million in base rent (“Base Rent”) for the Initial Term, equivalent to One Dollar and Twenty-Four Cents (\$1.24) per square foot, to support construction of the Fruitvale Transit Village and, as a result, has not paid any monthly Base Rent throughout the Initial Term. The City has continued monthly payments of its 11.14% proportionate share of common area maintenance (“CAM”) expenses; and

WHEREAS, the Lease provided that Base Rent under the Extended Terms shall be equal to the then fair market rental value; and

WHEREAS, the City and Property Owner did not agree on the fair market rental value when the Initial Term expired on December 4, 2023, and the City has continued to occupy the Premises without paying any monthly Base Rent since that time while the parties negotiated terms; and

WHEREAS, the City commissioned an appraisal that determined the fair market rental value of the Premises to be One Dollar and Twenty-Five Cents (\$1.25) per square foot; and

WHEREAS, Property Owner has agreed to a Base Rent of One Dollar and Twenty-Five Cents (\$1.25) per square foot or Eighteen Thousand Eight Hundred Ninety-Eight Dollars and Seventy-Five Cents (\$18,898.75) per month plus the City’s proportionate share of CAM expenses in exchange for the City paying back rent at this rate to December 2023 in a one-time payment of Three Hundred Forty Thousand One Hundred Seventy-Seven Dollars And Fifty Cents (\$340,177.50) upon execution of a new lease for the Premises, with annual increases in the Base Rent matched to the Consumer Price Index, subject to a minimum of Three Percent (3%) and maximum of Five Percent (5%) per year, and with an initial term of five (5) years with two five-year options to extend; and

WHEREAS, the City’s proportionate share of CAM expenses is currently estimated to be Eighty-Four Cents (\$0.84) per square foot or Twelve Thousand Six Hundred Ninety-Nine Dollars and Ninety-Six Cents (\$12,699.96) per month, to be reconciled annually; and

WHEREAS, pursuant to Section 2.41.050 of the Oakland Municipal Code, the City is authorized to lease real property from another entity, and all leases of real property by the City must be authorized by a resolution enacted by the City Council; and

WHEREAS, the City’s continued use of the Property Owner’s Premises as a public library is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA

Guidelines sections 15301 (existing facilities), 15061(b)(3) (common sense exemption), and 15183 (projects consistent with General Plan and Zoning); now, therefore, be it

RESOLVED: That the City Administrator is hereby authorized to complete all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend this lease agreement between the City, as tenant, and Fruitvale Development Corporation as Property Owner and landlord, for the landlord's Premises located at 3301 E. 12th Street, Suite 271 in the Fruitvale Village for ongoing use as the César E. Chávez Library for an initial term of five (5) years effective June 1, 2025, with two options to renew for five (5) years each, at an initial rate of One Dollar Twenty-Five Cents (\$1.25) per square foot or Eighteen Thousand Eight Hundred Ninety-Eight Dollars And Seventy-Five Cents (\$18,898.75) per month with an annual increase matched to the Consumer Price Index (CPI), subject to a minimum of Three Percent (3%) and maximum of five percent (5%) per year, plus a proportionate share of common area expenses estimated at Eighty-Four Cents (\$0.84) per square foot or Twelve Thousand Six Hundred Ninety Nine Dollars and Ninety-Six Cents (\$12,699.96), to be reconciled annually, with an initial one-time payment of Three Hundred Forty Thousand One Hundred Seventy-Seven Dollars and Fifty Cents (\$340,177.50) for eighteen months of back rent from December 2023 to May 2025; and be it

FURTHER RESOLVED: That the total proposed lease payments including CPI adjustment during the maximum fifteen (15) year term of the lease shall not exceed Seven Million One Hundred Seventy-Nine Thousand Six Hundred Eighty-Seven Dollars and Thirty-Four Cents (\$7,179,687.34), or Two Million Fifteen Thousand One Hundred Twenty-Seven Dollars and Eighty-Eight Cents (\$2,015,127.88) after the initial five year term, if the current CAM charges remain unchanged; and be it

FURTHER RESOLVED: That the proposed CAM expenses during the term of the proposed lease shall not exceed the City's 11.14% proportionate share; and be it

FURTHER RESOLVED: That all lease and other payments for the landlord's Premises will be funded through the General Purpose Fund (1010), Cesar E. Chavez Branch Organization (61345), Land and Building Rental Account (53211); and be it

FURTHER RESOLVED: That City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that this action complies with CEQA pursuant to CEQA Guidelines sections 15301 (existing facilities), 15061(b)(3) (common sense exemption), 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; and be it

FURTHER RESOLVED: That all agreements executed pursuant to the Resolution shall be approved as to form and legality by the Office of the City Attorney and copies shall be placed on file in the City Administrator's Office.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUL 1 2025

PASSED BY THE FOLLOWING VOTE:

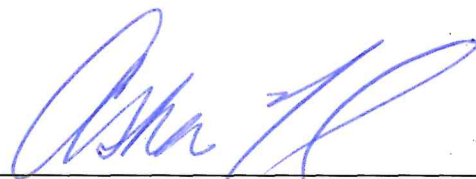
AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

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