

INTRODUCED BY COUNCILMEMBER CARROLL FIFE

  
CITY ATTORNEY'S OFFICE

# OAKLAND CITY COUNCIL

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

**ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE LEASE AGREEMENTS BETWEEN THE CITY OF OAKLAND AND CERTAIN ARTS AND EDUCATIONAL ORGANIZATIONS, INCLUDING INDIVIDUAL MEMBERS OF THE MALONGA ARTS COLLECTIVE (MAC), A NONPROFIT ORGANIZATION, FOR 10-YEAR TERMS EACH WITH ONE 5-YEAR OPTION TO RENEW, AT BELOW MARKET RATES FOR USE OF OFFICE SPACES AND REDUCED FEES FOR STUDIO SPACES AND THEATER USE AT THE MALONGA CASQUELOURD CENTER FOR THE ARTS (MCCA) AT 1428 ALICE STREET; (2) MAKING FINDINGS THAT THE OFFICE LEASES FOR BELOW MARKET VALUE ARE IN THE BEST INTERESTS OF THE CITY; (3) DIRECTING THE CITY ADMINISTRATOR TO RETURN WITH AN ORDINANCE TO AMEND THE MASTER FEE SCHEDULE TO PROVIDE FOR REDUCED FEES FOR STUDIO SPACES AND THEATER USE PURSUANT TO NEGOTIATED AGREEMENTS WITH TENANTS OF THE MCCA; AND (4) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the Malonga Casquelourd Center for the Arts (MCCA) located at 1428 Alice Street, Oakland, and formerly known as the Alice Arts Center is a City designated landmark and has established itself as one of the nation’s premiere Black Indigenous and People of Color (BIPOC) led cultural arts center; and

**WHEREAS**, MCCA houses the Malonga Arts Collective (MAC), a nonprofit California corporation and a coalition of arts and educational organizations and individual teaching artists who occupy office spaces and provide arts programming in studios located on the 2nd and 3rd Floors of MCCA; and

**WHEREAS**, the MAC is dedicated to sustaining MCCA as a vital part of Oakland Arts ecosystem and comprises world-renowned companies, such as Fua Dia Congo, Dimensions Dance Theater, Diamano Coura West African Dance Company, Omulu Capoeira Group, Bantaba Dance Ensemble, Samba Funk!, African Queens, Dance-A-Vision Entertainment, LIKHA Pilipino Folk Ensemble, Rara Tou Limen, teaching and showcasing the diversity and talents of the Oakland community; and

**WHEREAS**, in addition to the MAC, other arts and educational organizations have provided longstanding arts and educational programming at the MCCA, and have requested discounted studio and theater rates and may wish to occupy office space; and

**WHEREAS**, Oakland Municipal Code (OMC) Section 2.42.110 provides that a lease for use of City property must be 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 lease of the property for less than its fair market value is in the best interests of the City; and

**WHEREAS**, OMC Section 2.42.110 provides that the social and cultural benefits to the community provided by the lessees may be considered by the Council in making a finding that the license for use of the property for less than its fair market rental value is in the best interests of the City; and

**WHEREAS**, MAC member organizations have provided and desire to further provide cultural and social benefits to the City and the community at large by providing invaluable training and community enrichment through regular low-cost and free classes, workshops, rehearsals, conferences, cultural events, showcases, shows, concerts that have benefited thousands of children, teens, adults and elders at MCCA, as well as free classes to youth in Oakland schools; and

**WHEREAS**, it is in the City's interest to ensure MAC and its member organizations are able to continue providing social and cultural benefits to the City, which will require the City to provide MAC member organizations access to office spaces at MCCA at below-market rates; and

**WHEREAS**, the MCCA also has single-room-occupancy (SRO) units, offices, storage space, recording studios, rehearsal spaces, and performance spaces, which provides an affordable place for Oakland's arts organizations and artists to live and work, which helps prevent cultural displacement; and

**WHEREAS**, the City's Master Fee Schedule sets forth the current rates for the MCCA main stage/theater performance spaces, studios, recording studios, vendor fee, conference rooms, box office space, grand lobby, and annex and distinguishes such rates by for profit and non-profit organizations; and

**WHEREAS**, the City's Master Fee Schedule for Parks, Recreation & Youth Development (OPR) authorizes fees for rental facilities like the MCCA to be negotiated based on services provided by non-profit groups with OPR Partnership Agreements; and

**WHEREAS**, reduced fees for studio spaces and theater use pursuant to negotiated agreements with tenants of the MCCA requires an ordinance amending the Master Fee Schedule; and

**WHEREAS**, the City is currently in the process of implementing a feasibility study and building assessment of the MCCA; and

**WHEREAS**, the MAC strives to make MCCA a thriving and vibrant cultural hub at the intersections of arts, culture, community belonging, and activism and seeks to sustain, grow, and ensure the public's and artists' access to world-class arts programming; and

**WHEREAS**, the Oakland City Council is committed to maintaining the MCCA as the home of the MAC; and

**WHEREAS**, the leases will not result in a significant impact under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15061(b)(3) and 15301 since it provides for the ongoing use of an existing facility within the City; 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 are hereby incorporated herein as findings and determinations of the City Council.

**SECTION 2.** Pursuant to OMC Section 2.42.110, and based on the social, cultural, and economic benefits provided or to be provided by certain arts and educational organizations, including individual MAC member organizations described in the above recitals, the City Council finds and determines that it is in the City's best interest to enter into lease agreements with certain arts and educational organizations, including the MAC member organizations, at below market rates for use of the office spaces at the MCCA.

**SECTION 3.** The City Administrator is hereby authorized to negotiate and execute lease agreements with certain arts and educational organizations, including individual members of the MAC, for MCCA office spaces at below fair market value and studio spaces and theater use at reduced fees for an initial 10-year term with one 5-year option to extend, provided that individual tenants are in full compliance with all terms and conditions of any applicable prior lease agreements.

**SECTION 4.** The rent to be paid by each tenant for office spaces at the MCCA will be negotiated by the City Administrator or designee but shall not exceed the current rents paid by each tenant and shall include annual Consumer Price Index (CPI) adjustments in an amount not to exceed 60% of the percentage increase in the CPI for the San Francisco-Oakland-Hayward area or three percent (3%), whichever is lower.

**SECTION 5.** The City Administrator or designee is hereby authorized to negotiate and execute each of the specific lease agreements and any amendments thereto with certain longstanding arts and educational organizations, including individual members of the MAC, who are qualified to occupy the Center by virtue of being fully functioning arts and educational organizations and who otherwise meet the mission of education, instruction, performance, and

other services in the performing arts, as the City Administrator or designee may from time to time decide.

**SECTION 6.** The City Council hereby directs the City Administrator to return to Council on or before May 30, 2023 with (1) an informational report and recommendations on the status of lease agreements with MAC member organizations and how the City currently coordinates and can further collaborate with MAC and its members; (2) a proposed scope and budget for a master plan for cultural arts programming at MCCA to increase Oakland residents' ability to take advantage of the center's unique resources; and (3) a status update on the City's feasibility study and building assessment underway at the MCCA.

**SECTION 7.** The City Council hereby directs the City Administrator to return to Council with an ordinance to amend the Master Fee Schedule on or before July 1, 2023 to provide for reduced fees for studio spaces and theater performance spaces pursuant to negotiated agreements with tenants of the MCCA.

**SECTION 8.** The City Attorney's Office shall review and approve the leases and any amendments as to form and legality and consistency with this Ordinance, and a copy of each shall be placed on file with the City Clerk.

**SECTION 9.** The City Council hereby authorizes the City Administrator to enter into leases or amendments of such leases consistent with this Ordinance and its basic purposes.

**SECTION 10. CEQA Findings.** The City Council hereby finds and determines, on the basis of substantial evidence in the record, that this action is not a project subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because the leases authorized by this ordinance will not have a direct or reasonably foreseeable indirect physical change in the environment. In addition, the leases for authorized by this ordinance are exempt from CEQA pursuant to Section 15301 (existing facilities) as the leases are for ongoing operation of existing public structures and facilities. The approval of the leases will not result in the significant addition or alteration of existing areas already in use.

**SECTION 11. 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 12. 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 – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, 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 (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE LEASE AGREEMENTS BETWEEN THE CITY OF OAKLAND AND CERTAIN ARTS AND EDUCATIONAL ORGANIZATIONS, INCLUDING INDIVIDUAL MEMBERS OF THE MALONGA ARTS COLLECTIVE (MAC), A NONPROFIT ORGANIZATION, FOR 10-YEAR TERMS EACH WITH ONE 5-YEAR OPTION TO RENEW, AT BELOW MARKET RATES FOR USE OF OFFICE SPACES AND REDUCED FEES FOR STUDIO SPACES AND THEATER USE AT THE MALONGA CASQUELOURD CENTER FOR THE ARTS (MCCA) AT 1428 ALICE STREET; (2) MAKING FINDINGS THAT THE OFFICE LEASES FOR BELOW MARKET VALUE ARE IN THE BEST INTERESTS OF THE CITY; (3) DIRECTING THE CITY ADMINISTRATOR TO RETURN WITH AN ORDINANCE TO AMEND THE MASTER FEE SCHEDULE TO PROVIDE FOR REDUCED FEES FOR STUDIO SPACES AND THEATER USE PURSUANT TO NEGOTIATED AGREEMENTS WITH TENANTS OF THE MCCA; AND (4) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

This Ordinance authorizes lease agreements with certain arts and educational organizations, including individual member organizations of the MAC, for use of office spaces at below market rates and studio spaces and theater use at reduced fees at the MCCA for a 10-year term with one 5-year option to renew in exchange for social, cultural and economic benefits as authorized by OMC Section 2.42.110. This Ordinance also authorizes the City Administrator to negotiate and enter into below market rate lease agreements for this transaction and amendments consistent with the Ordinance, directs the City Administrator to return with an ordinance to amend the master fee schedule to provide for reduced fees for studio spaces and theater use, and makes associated findings with respect to the California Environmental Quality Act and other matters.