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OFFICE OF THE CITY CLERK  
OAKLAND

2014 DEC -4 PM 2: 21

## AGENDA REPORT

**TO:** HENRY L. GARDNER  
INTERIM CITY ADMINISTRATOR

**FROM:** Audree V. Jones-Taylor

**SUBJECT:** Montclair Tennis Association  
Agreement

**DATE:** November 18, 2014

City Administrator  
Approval

Date

12-4-14

**COUNCIL DISTRICT:** District - 4

### **RECOMMENDATION**

Staff recommends that the City Council adopt an ordinance authorizing a license agreement with the Montclair Tennis Association for use of tennis courts and other property at Montclair Park for a five year term with two additional three year options to renew without returning to Council.

### **OUTCOME**

Passage of this ordinance will authorize the City Administrator or his designee to execute a license agreement with Montclair Tennis Association (MTA) for use of property located in Montclair Park commonly known as the "upper tennis courts" and ten off-street parking stalls for a five year term with the option to renew for two additional three year terms. The proposed license agreement provides MTA the authority to collect monthly parking stall rental fees to be held "in trust" by the City and used for improvements, maintenance, landscaping and upkeep of City of Oakland public tennis facilities in the Montclair Village area.

### **BACKGROUND/LEGISLATIVE HISTORY**

The City and Montclair Tennis Association have a long-standing relationship dating back to 1965 with a contract agreement similar to the proposed license agreement. Under previous agreements the City permitted MTA to sublease ten off-street parking stalls to citizens for a fee approved by the City. Rental fees are collected by MTA and deposited to the City where they are held "in trust" and restricted in use for the improvement of tennis courts at Montclair Park or the expansion and development of City of Oakland Montclair Village area public tennis facilities. No City funds were expended under the original agreement and considerable tennis court improvements have been completed.

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While OPR acknowledges that the most recent contract expired in December 2007 and MTA has been operating in a holdover capacity since this time, OPR has remained in communication with MTA as OPR staffing challenges and management turn-over of the past ten years were addressed. OPR is aware of the need to bring its contract management into compliance and has created a tracking method to identify and track every lease and contract within the department with community partners for all OPR facilities.

### **ANALYSIS**

Since its founding in the 1960's, the membership of Montclair Tennis Association has organized and promoted affordable or free tennis activities for the public. MTA has been stewards of the property providing the area clear of debris, tending to planting beds, picking up trash, and hosting tennis tournaments and social tennis programs for Oakland residents without the high cost of joining a private club. In addition, MTA has collected and deposited monthly parking stall fees to fund maintenance and improvements as described in the Past Performance/Evaluation/Follow up section of this report. The proposed agreement authorizes MTA to continue to collect monthly parking stall fees and requires stewardship of the property. The City Administrator has determined that the value of the in-kind services provided by MTA results in a net benefit to the City that is equal to or exceeds 75 percent of the fair market rent for the Licensed Area and staff believes it is in the best interest of the City to continue the mutually beneficial relationship with the Montclair Tennis Association.

### **PUBLIC OUTREACH/INTEREST**

This item did not require any additional public outreach other than the required posting on the City's website.

### **COORDINATION**

OPR coordinated with the following agencies and groups while developing this report and license agreement:

- Oakland Office of the City Attorney
- Oakland Contract and Compliance
- Oakland Budget Office
- Oakland Office of the City Administrator
- Oakland Public Works
- Oakland Real Estate Services Division
- Montclair Tennis Association

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### **COST SUMMARY/IMPLICATIONS**

Revenue collected from the ten parking stalls is expected to generate \$9,000 per year and will be deposited to Oakland Parks & Recreation Department's Miscellaneous Trust Fund (7999), Office of the Director Organization (501110), Receipt of Trust Funds Account (48715), and Central Administration Program (NB01). Rental parking fees collected are restricted in use for improvements, maintenance, landscaping and upkeep as necessary, and for development of City of Oakland public tennis facilities in the Montclair Village area. In addition, MTA will be reimbursed up to \$1,500 annually for the costs of insurance.

### **PAST PERFORMANCE, EVALUATION AND FOLLOW-UP**

The Montclair Tennis Association was organized to provide and promote tennis activities to the public. In agreement with the City of Oakland, two courts were built in upper Montclair Park. In addition to MTA's stewardship of the two upper courts, MTA has supported many other tennis related causes, financially and with volunteer time and energy. Examples of such community give-back include:

- Ongoing donations of used tennis rackets and balls to Montclair Recreation Center and Davie Tennis Stadium.
- Donation of new tennis rackets, storage stand, and balls to the United States Tennis Association (USTA) Quick-Start Tennis Programs hosted at Davie Tennis Stadium.
- Volunteer coaching in USTA Quick-Start Tennis Program.
- Endorsement and support of DAVIE FEST (\$500 donation and countless volunteer hours).
- Monetary donations to OPR youth tennis programs.
- Sponsorship of OPR's youth tennis team's tournament travel to New York.
- Monetary donations to USTA for wheelchair tennis programs.

The below maintenance and improvements were coordinated through MTA volunteer efforts and paid from collected parking stall fees.

- Court resurfacing as needed (every 5-6 years).
- Installation of overhead lighting at both courts.
- Replacement of nets as needed.
- Information signage (2010).
- Installation, maintenance and replacement of windscreens as needed (last done in 2014).
- Installation and maintenance of a community bulletin board.
- Basic weed control and landscaping of immediate area surrounding courts.
- Basic weekly pick up of debris left on and around court.
- Installation and maintenance of storage shed. Last replaced 2010.

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Future Improvement Plans:

- Installation of lighting fixture at the hitting wall.
- Replacement of overhead lighting fixtures / bulbs.
- Replacement of parking lot signage.

**SUSTAINABLE OPPORTUNITIES**

***Economic:*** Approval of this ordinance does not offer economic opportunities.

***Environmental:*** City hazardous material policies will be adhered to by MTA at the facility during improvement and maintenance work.

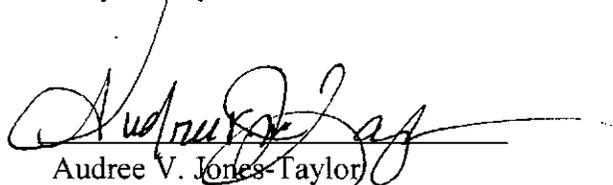
***Social Equity:*** Montclair Tennis Association offers affordable or free programs to the public providing the opportunity for Oakland residents to experience positive health benefits and both the competitive and recreational aspects of the sport of tennis.

**CEQA:**

This report is not a project under CEQA.

For questions regarding this report, please contact Dana Riley, Assistant to the Director, at 510-238-6495.

Respectfully submitted,



Audree V. Jones-Taylor  
Director, Oakland Parks & Recreation

Prepared by:  
Dana Riley, Assistant to the Director  
Oakland Parks & Recreation

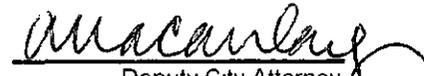
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Approved as to Form and Legality

# OAKLAND CITY COUNCIL

  
Deputy City Attorney

ORDINANCE No. \_\_\_\_\_ C.M.S.

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**ORDINANCE AUTHORIZING A LICENSE AGREEMENT WITH THE  
MONTCLAIR TENNIS ASSOCIATION FOR USE OF TENNIS COURTS  
AND OTHER PROPERTY AT MONTCLAIR PARK FOR A FIVE YEAR  
TERM WITH TWO THREE-YEAR OPTIONS TO RENEW WITHOUT  
RETURNING TO COUNCIL**

**WHEREAS**, the City is the owner of real property located in Montclair Park commonly known as the “upper tennis courts at Montclair Park” consisting of two tennis courts, viewing area, hitting wall, storage shed, and ten off-street parking stalls (hereinafter the “Licensed Area”); and

**WHEREAS**, the Montclair Tennis Association (“MTA”) is a local nonprofit organization; and

**WHEREAS**, the City has a long standing relationship with MTA dating back to 1965, and since that time MTA has been a steward of the Licensed Area collecting and depositing monthly parking stall fees to be held “in trust” to be used for improvements, maintenance, landscaping and upkeep, and for development of City of Oakland Montclair Village area public tennis facilities; and

**WHEREAS**, the City desires to continue to operate public tennis courts and adjacent parking stalls at Montclair Park with the stewardship of MTA; and

**WHEREAS**, MTA desires to continue having use of the Licensed Area for the purpose of promoting the sport of tennis to all Oakland residents; and

**WHEREAS**, MTA has agreed to continue its stewardship of the License Area keeping it in good order and clear of debris and including the management and collection of rental fees for ten off-street parking spaces; and

**WHEREAS**, MTA will forward all parking fees to the City to be held “in trust” and to be used for the improvement, maintenance, landscaping and upkeep, and for the development of City of Oakland Montclair Village area public tennis facilities; and

**WHEREAS**, Section 219(6) of the City Charter requires a Council ordinance in order to authorize the conveyance or lease for longer than one year of real property of the City; and

**WHEREAS**, Ordinance No. 11722 C.M.S. authorizes the rental or lease of City real property to providers of in-kind services to the City in lieu of monetary rent if the value of the in-kind services results in a net benefit to the City that is equal to or exceeds 75% of the fair market rent for the property; and

**WHEREAS**, the City Administrator has determined that the value of the in-kind services provided by MTA results in a net benefit to the City that is equal to or exceeds 75% of the fair market rent for the Licensed Area; and

**WHEREAS**, the proposed license of the Licensed Area to MTA is in the best interest of the City of Oakland because MTA's purpose is to provide and promote tennis activities to the public, and MTA has proved to be good stewards of the Licensed Area, in addition to supporting many other Oakland tennis-related causes, financially and with volunteer time and energy;

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

**SECTION 1.** The Oakland City Council authorizes the City Administrator, or his or her designee, to negotiate and enter into a license agreement with Montclair Tennis Association for use of the Licensed Area at no cost of license fees or rent to MTA, in return for MTA's stewardship, management and collection of rental fees for ten off-street parking spaces, for a term of five years with two additional three year options to renew by mutual agreement of the parties.

**SECTION 2.** The City Administrator, or his or her designee, is hereby authorized to approve any subsequent amendments, modifications, or extensions of said agreement, including exercising either of the options to renew, without returning to Council, except those increasing the term of the agreement beyond the two options to renew.

**SECTION 3.** Based on the information provided above and in the report accompanying this Ordinance, the City Council finds that the value of the in-kind services provided by MTA results in a net benefit to the City that is equal to or exceeds 75% of the fair market rent for the Licensed Area.

**SECTION 4.** The City Council hereby waives any requirement for competitive bidding of this license.

**SECTION 5.** The proposed license agreement will be approved by the Oakland City Attorney as to form and legality, and a copy will be on file in the Office of the City Clerk.

**SECTION 6.** 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 Ordinance. 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 7.** 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 - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

## **NOTICE AND DIGEST**

### **ORDINANCE AUTHORIZING A LICENSE AGREEMENT WITH THE MONTCLAIR TENNIS ASSOCIATION FOR USE OF TENNIS COURTS AND OTHER PROPERTY AT MONTCLAIR PARK FOR A FIVE YEAR TERM WITH TWO THREE YEAR OPTIONS TO RENEW WITHOUT RETURNING TO COUNCIL**

This Ordinance would authorize a five-year license agreement with the Montclair Tennis Association for the use and rental of tennis courts, ten off-street parking spaces, and other property at Montclair Park, with two options to renew the license for three years each, at no rent or license fee, in return for certain in-kind services.