

2019 MAY 29 PM 3:59


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL
ORDINANCE NO. 13548 C.M.S.

AN ORDINANCE (1) AUTHORIZING A LEASE AGREEMENT WITH BAY AREA COMMUNITY SERVICES (BACS) FOR LEASE OF THE CITY-OWNED REAL PROPERTY LOCATED AT 641 WEST GRAND AVENUE FOR A TERM OF FIVE YEARS FOR ZERO RENT IN EXCHANGE FOR IN-KIND SERVICES TO PROVIDE HOUSING AND SUPPORTIVE SERVICES TO HOMELESS INDIVIDUALS; AND (2) FINDING AND DETERMINING THAT THE LEASE OF THE CITY- OWNED REAL PROPERTY LOCATED AT 641 WEST GRAND AVENUE TO BACS FOR LESS THAN ITS FAIR MARKET VALUE IS IN THE BEST INTEREST OF THE CITY.

WHEREAS, the City of Oakland owns several properties that it leases for use as interim housing for homeless individuals and families; and

WHEREAS, on May 1, 2018, the City Council added to this inventory by approving Ordinance No. 13484 C.M.S., which authorized the purchase of a 70-unit SRO residential hotel located at 641 West Grand Avenue for \$7 million for use as transitional housing; and

WHEREAS, on October 11, 2018, the City Council passed Resolution No. 87399 C.M.S., authorizing the City to lease the City-owned real property located at 641 West Grand Avenue (the "Property") to Bay Area Community Services ("BACS"); and

WHEREAS, the lease authorized by the City Council has a term of eight months, commencing on November 1, 2018, through June 30, 2019, and is eligible for extension by up to four additional annual terms upon mutual agreement of the City and BACS; and

WHEREAS, the City desires to establish a five-year lease term upon the expiration of the existing eight month lease term, that expires on June 30, 2019, in order to allow BACS to continue to help mitigate the ongoing homeless crises through the provision of interim housing, supportive services and rental assistance for up to eighty homeless individuals participating in The Holland program and to provide security to BACS and its 90 program participants while new interim housing programs are being established;

WHEREAS, BACS does not pay rent to the City for use of the Property, instead BACS provides in-kind services to the City and the community at large in the form of supportive services, case management, intake assessment, benefits advocacy, alcohol and drug counseling, health education, educational services, money management, vocational counseling, job development, transportation and emergency food assistance, and rental and security deposit assistance; and

WHEREAS, BACS' in-kind services are valued at approximately \$145,000 annually to augment the HUD funding and fully fund the support services offered to homeless individuals; and

WHEREAS, through a grant from the City, BACS receives approximately \$557,586 of HUD CoC funding annually to provide these services; and

WHEREAS, program participants pay a nominal rental fee to BACS that is 30% of their annual income, which is a HUD requirement and can only be used to support The Holland program; and

WHEREAS, Oakland Municipal Code ("OMC") Section 2.42.100 provides that leases of City-owned real property require City Council approval by ordinance; and

WHEREAS, OMC Section 2.42.110 provides that City-owned real property must be leased for a rent equal to or exceeding the property's fair market value, unless the City Council has made 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

WHEREAS, OMC Section 2.42.110 provides that the value of in-kind services in lieu of cash rent provided by lessees to the City or the community at large, including property security and maintenance, and social and cultural benefits to the community, may be considered by the City Council in making a finding and determination that the lease of property for less than its fair market rental value is in the best interests of the City; and

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

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. The City Administrator is authorized to execute a lease agreement with Bay Area Community Services for a term of five (5) years, commencing on July 1, 2019 and expiring on June 30, 2024 for use of the Property for the provision of interim housing and supportive services to participants in the HUD CoC "The Holland" program.

Section 3. Pursuant to OMC Section 2.42.110, and based on the value of the in-kind services provided by BACS discussed above and in the City Administrator's report

accompanying this Ordinance, the City Council hereby finds and determines that leasing the City-owned real property located at 641 West Grand Avenue to BACS for less than its fair market rental value is in the best interest of the City.

Section 4. The City Attorney shall review and approve the proposed lease agreement as to form and legality, and a copy shall be placed on file with the City Clerk.

Section 5. 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.

Section 6. 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.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUL - 9 2019


PASSED BY THE FOLLOWING VOTE:

AYES – FORTUNADO BAS, GALLO, GIBSON-MCELHANEY, KALB, REID, THAO, TAYLOR, AND COUNCIL PRESIDENT KAPLAN — 8

NOES – 0

ABSENT – 0

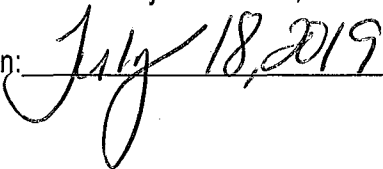
ABSTENTION – 0

ATTEST: 

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

Introduction Date

JUN 18 2019

Date of Attestation: 

NOTICE AND DIGEST

AN ORDINANCE (1) AUTHORIZING A LEASE AGREEMENT WITH BAY AREA COMMUNITY SERVICES (BACS) FOR LEASE OF THE CITY-OWNED REAL PROPERTY LOCATED AT 641 WEST GRAND AVENUE FOR A TERM OF FIVE YEARS FOR ZERO RENT IN EXCHANGE FOR IN-KIND SERVICES TO PROVIDE HOUSING AND SUPPORTIVE SERVICES TO HOMELESS INDIVIDUALS; AND (2) FINDING AND DETERMINING THAT THE LEASE OF THE CITY- OWNED REAL PROPERTY LOCATED AT 641 WEST GRAND AVENUE TO BACS FOR LESS THAN ITS FAIR MARKET VALUE IS IN THE BEST INTEREST OF THE CITY.

This Ordinance would authorize the City Administrator to negotiate and execute a lease agreement with Bay Area Community Services for lease of the City-owned real property located at 641 Grand Avenue in Oakland for a term of five years commencing on July 1, 2019, through July 30, 2024. This ordinance would make a finding and determination of the City Council that the lease of the City-owned real property located at 641 Grand Avenue in Oakland to BACS for less than its fair market value in exchange for in-kind services to the City and the community at large in the form of housing and supportive services to homeless individuals is in the best interest of the City.