

Jordan Sanders
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE (1) AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO AMEND THE LICENSE AGREEMENT FOR 1911 TELEGRAPH AVENUE BETWEEN THE CITY OF OAKLAND AND THE LAKE MERRITT-UPTOWN DISTRICT ASSOCIATION OF OAKLAND, TO EXTEND THE TERM OF THE LICENSE AGREEMENT FROM SEPTEMBER 1, 2020 TO DECEMBER 31, 2022, FOR A MONTHLY LICENSE FEE OF TWO THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$2,250.00); AND (2) MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EXEMPTION FINDINGS.

WHEREAS, on September 1, 2019 the City of Oakland and the Lake Merritt-Uptown District Association (LMUD) of Oakland entered into a license agreement for 1911 Telegraph Ave. (Property) that expired on August 31, 2020 (License Agreement); and

WHEREAS, LMUD has sponsored various community-serving events at the Property, bringing over 30,000 visitors to the area; and

WHEREAS, LMUD desires to continue sponsoring events through December 31, 2022 to enable on-going activation of the site for community-serving uses; and

WHEREAS, LMUD proposes that one of these activations would be a temporary, publicly-accessible museum on the Property in honor of rapper and songwriter Tupac Shakur, who lived in and developed as an artist in Oakland; and

WHEREAS, regular use of the site deters illegal occupancy, illegal dumping and litter, and encourages downtown foot traffic and public enjoyment of the site; and

WHEREAS, if approved, City would continue to collect an annual fee of twenty-seven thousand dollars (\$27,000), which is the fair market rental value of the Property; and

WHEREAS, on July 21, 2020 the City Council adopted Resolution No. 88233 declaring the Property as “surplus land” pursuant to the Surplus Land Act (SLA), Government Code Section 54220(b)(1), and authorizing the City Administrator to issue a Notice of Availability to solicit development proposals for the Property; and

WHEREAS, the City plans to issue a Notice of Availability during the first half of 2021 to solicit development proposals consistent with the SLA; and

WHEREAS, City staff anticipate that in no event will the Property be ready for development any earlier than 2023 and that the proposed amendment to the License Agreement would, therefore, not slow or otherwise interfere with the disposition and development of the Property; and

WHEREAS, the proposed amendment would grant LMUD non-exclusive use and allow the City to terminate the License Agreement at any time in order to facilitate the disposition and development of the Property; and

WHEREAS, the City Council desires to authorize the City Administrator to execute the First Amendment to the License Agreement by adoption of this Ordinance;

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

SECTION 1. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

SECTION 2. The City Council hereby authorizes the City Administrator or his/her designee to complete all required negotiations, certifications, assurances, and documentation required to enter into a First Amendment to the License Agreement between the City, as landlord, and Lake Merritt-Uptown District Association, as tenant, for the City's undeveloped property located at 1911 Telegraph Avenue, for a term ending December 31, 2022 at the fair market rental rate of Two Thousand Two Hundred Fifty Dollars (\$2,250.00) per month and providing the City with right to terminate at any time, for the purpose of activating the property with community-serving uses.

SECTION 3. The City Council hereby authorizes the City Administrator, or designee, to enter into further minor amendments to the License Agreement, without extending the term of the License, consistent with this Ordinance and its basic purposes.

SECTION 4. The City Council hereby finds and determines, on the basis of substantial evidence in the record and each as a separate and independent basis, that this action is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15303 (small structures) and 15304 (minor alterations of land; temporary uses). The City Administrator or his/her designee is hereby directed to file a notice of exemption with the appropriate agencies.

SECTION 5. All documents related to the First Amendment to the License Agreement shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution by the City and shall be placed on file with 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 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 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 -FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR,
THAO AND PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
Acting 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 OR DESIGNEE TO AMEND THE LICENSE AGREEMENT FOR 1911 TELEGRAPH AVENUE BETWEEN THE CITY OF OAKLAND AND THE LAKE MERRITT-UPTOWN DISTRICT ASSOCIATION OF OAKLAND, TO EXTEND THE TERM OF THE LICENSE AGREEMENT FROM SEPTEMBER 1, 2020 TO DECEMBER 31, 2022, FOR A MONTHLY LICENSE FEE OF TWO THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$2,250.00); AND (2) MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EXEMPTION FINDINGS.

This Ordinance would authorize the City Administrator or designee to negotiate and enter into a first amendment to an existing license agreement for the City-owned vacant lot at 1911 Telegraph Ave., for the non-exclusive use of the property by Lake Merritt-Uptown District Association of Oakland, for an extended term ending December 31, 2022, for a fair market monthly license fee of \$2,250. The amended license agreement would permit the City to terminate the license at any time. This Ordinance also makes CEQA exemption findings for the authorization of the license and the temporary use on the property.