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FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13716 = C.M.S.

AN ORDINANCE:

(A) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE:

- (1) A 50-YEAR JOINT OCCUPANCY AND LEASE AGREEMENT WITH OAKLAND UNIFIED SCHOOL DISTRICT FOR PROPERTY LOCATED AT 86 ECHO AVENUE, WITH TWO 5-YEAR ADMINISTRATIVE OPTIONS TO EXTEND AND RENT OF \$4,000 PER MONTH INCREASING 10 PERCENT EVERY 5 YEARS DURING THE TERM FOR CONSTRUCTING AND OPERATING A PUBLIC LIBRARY, SUBJECT TO APPROPRIATION OF FUNDS NECESSARY FOR CONSTRUCTION; AND**
- (2) A JOINT USE COOPERATIVE AGREEMENT WITH THE DISTRICT FOR THE NEW LIBRARY; AND**
- (2) AN EXTENSION OF THE EXISTING JOINT-USE LEASE AGREEMENT WITH THE DISTRICT FOR THE EXISTING PIEDMONT AVENUE BRANCH LIBRARY LOCATED AT 80 ECHO AVENUE UNTIL COMPLETION OF THE NEW LIBRARY; AND**

(B) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, pursuant to Resolution No. 83960 C.M.S., the City of Oakland ("City") entered into that certain Joint-Use Lease Agreement ("Existing Agreement") on September 7, 2017 with the Oakland Unified School District ("District") to operate the Piedmont Avenue Branch Library in a 1,920 square foot modular structure located at 80 Echo Avenue on the grounds of the Piedmont Avenue Elementary School located at 4314 Piedmont Avenue in North Oakland; and

WHEREAS, the District owns an approximately 22,216 square-foot parcel located at 86 Echo Avenue ("Property"), adjacent to the Piedmont Avenue Elementary School, which includes a 6,370 square foot structure in disrepair, which was previously used by the District as the former Piedmont Avenue Early Childhood Development Center; and

WHEREAS, in 2019, an advisory committee appointed by the District recommended to the District Governing Board that the Property not be declared surplus, but instead be jointly used by the District and another entity as a library and educational space for District students; and

WHEREAS, in April 2021, the District issued a request for proposals (“RFP”) for the development and operation of a public library on the Property pursuant to a Joint Occupancy and Lease Agreement (“Lease Agreement”); and

WHEREAS, on June 24, 2021, the Oakland City Council passed Resolution No. 88717 C.M.S, which adopted the City of Oakland Fiscal Year 2021-23 Biennial Budget; and

WHEREAS, the Fiscal Year 2021-23 Biennial Budget included appropriation of \$750,000 as part of the Capital Improvement Plan for a feasibility study (“Feasibility Study”) to include public outreach, facility analysis, design, cost estimate, financing plan, and construction permit set completion for a new Piedmont Avenue library facility (“Library”); and

WHEREAS, on May 17, 2021, the City submitted a proposal in response to the RFP and following counter proposals from both the District and the City, the District’s Governing Board accepted the City’s counter proposal; and

WHEREAS, the City’s accepted counter proposal included the following terms: (1) the Lease Agreement for a term of 50 years with two 5-year administrative extension options; (2) rent of \$4,000 per month beginning the earlier of the completion of the new Library, or March 4, 2026, and increasing 10 percent every 5 years during the term of the Lease Agreement; (3) completion of a Conceptual Design for the new Library; and (4) termination of the Lease Agreement at no cost until November 30, 2024 unless City Council approves continuing the Lease Agreement; and (5) extension of the Existing Agreement until construction of the Library is complete and any rent paid under the Lease Agreement prior to completion of the new Library shall constitute the City’s consideration under both the Lease Agreement and the Existing Agreement (that is, the City will not pay double rent); subject to appropriation of funds to construction the new Library (collectively, the “Lease Terms”); and

WHEREAS, the District also requires that the Lease Agreement require the City and District to negotiate in good faith a joint use cooperative agreement (the “Joint Use Cooperative Agreement”) to provide how the District may jointly use the new library, which is intended to be similar to the Joint Use Cooperative Agreement in use at the City’s 81st Avenue Branch Library attached to the Agenda Report for this item (collectively, “Joint Use Terms”); and

WHEREAS, the District requires (1) the Lease Agreement to be executed on or before December 31, 2022, and (2) that City Council approve and execute the Lease Agreement before the District’s Governing Board will take action to approve the Lease Agreement; and

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

SECTION 1. The City Council hereby authorizes the City Administrator to negotiate and execute (a) the Lease Agreement and (b) extension of the Existing Agreement consistent with the Lease Terms.

SECTION 2. The City Administrator shall report to City Council on the results of the Feasibility Study before continuing the agreed upon Lease Agreement beyond November 30, 2024.

SECTION 3. The City Council hereby authorizes the City Administrator to negotiate and execute a Joint Use Cooperative Agreement consistent with the Joint Use Terms.

SECTION 4. City Council hereby authorizes the payments required under the Lease Agreement will be made out of the General Purpose Fund (1010), Piedmont Branch Org (61347), Rental Account (53211), Administration Project (1000013), Branch Library Services Program (NB17).

SECTION 5. California Environmental Quality Act. The City Council finds and determines, after independent review and consideration, that this action will not result in direct or indirect physical change in the environment and does not in and of itself constitute a "project" pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15378. Alternatively, this action is exempt from CEQA pursuant to the following CEQA Guidelines sections: (a) section 15061(b)(3) (the common sense exemption) because there is no possibility the action could result in a physical change in the environment; and (b) section 15301 (existing facilities exemption) because the action involves the lease of existing facilities.

SECTION 6. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 7. 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 8. 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,

DEC 20 2022

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, ~~WILLIAMS~~ TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS – 7

NOES – 0

ABSENT – 0

ABSTENTION – 0

1 Excused – Reed

ATTEST:



ASHA REED

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

Date of Attestation: January 17, 2023

Introduction Date

DEC 06 2022

NOTICE AND DIGEST

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(B) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance authorizes the City Administrator to negotiate and execute a 50-year Joint Occupancy and Lease Agreement with two 5-year administrative options to extend and rent of \$4,000 per month increasing 10 percent every 5 years for constructing and operating a new public library at 86 Echo Avenue, adjacent to the Piedmont Avenue Elementary School on property owned by Oakland Unified School District. It further authorizes the City Administrator to negotiate and execute a joint use agreement for the District's use of the new library and to extend the existing Joint-Use Lease Agreement to allow the City to continue to operate the existing Piedmont Avenue Branch Library located at 80 Echo Avenue until construction of the new library is complete.