

ORDINANCE NO. 7,858-N.S.

LEASE AMENDMENT TO CAZADERO PERFORMING ARTS CAMP FOR THE PROPERTY AT 5385 CAZADERO HWY, CAZADERO, CA 95421

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1.

The City Manager or designee is hereby authorized to execute an amendment to a lease agreement, with Cazadero Performing Arts Camp, for the property at 5385 Cazadero Hwy, Cazadero, CA 95421. Such lease amendment shall be on substantially the same terms as set forth in Exhibit A.

Section 2.

On December 15, 2020, Council adopted the final list of projects for implementation in Phase 2 of the Measure T1 Infrastructure Bond Program. The main provisions of this amendment to authorized the disbursement of Measure T1 Funds, up to \$400,000 to Cazadero Performing Arts Camp for implementation of projects list in Phase 2. This amendment provides funds for Cazadero Performing Arts Camp to manage and complete the City's required improvements.

Section 3.

Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on April 11, 2023, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Harrison, Humbert, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Exhibit A: Lease Amendment

AMENDMENT TO LEASE AGREEMENT

This lease amendment (“**Amendment**”) is made as of ____ May 2023 between the CITY OF BERKELEY (“**Landlord**”) and Cazadero Performing Arts Camp (“**Tenant**”), who agree as follows:

This Amendment is made with reference to the following facts and objectives, to which Landlord and Tenant respectively acknowledge and agree:

A. Landlord and Tenant entered into a Lease Agreement effective March 1, 2021 (“**Lease**”) to use and manage the Landlord’s property located at 5385 Cazadero Hwy, Cazadero, CA 95421 (“**Cazadero Camp**”), as set forth in the Lease. A copy of the Lease is attached hereto as Exhibit A.

B. The Initial Term of the Lease expires on December 31, 2045, subject to a 10-year option to renew.

C. The Lease provides for specified Capital Improvements and Repairs at Cazadero Camp.

1. Tenant is required to complete property improvements as set forth in Table 1 of the Lease during the first 10 years of the Term. The cost of such Tenant property improvements is estimated at \$815,843.
2. Landlord agreed to make its best efforts to complete property improvements as set forth in Table 2 of the Lease and further agreed that inability to fund such property improvements on or before February 28, 2026 would entitle Tenant to a rent reduction for the period from March 1, 2026 through February 28, 2031. The cost of such Landlord property improvements is estimated at \$404,710.

D. On December 15, 2020, Landlord’s City Council adopted the final list of projects for implementation in Phase 2 of the Measure T1 Infrastructure Bond Program; the project list includes dining hall and ADA improvements at Cazadero Camp with a budget allocated of \$400,000 (“**Cazadero Camp T1 Funds**”).

E. Landlord and Tenant agree that the most cost-effective and timely way to complete the Cazadero Camp dining hall and ADA improvements is for Tenant to implement those improvements subject to approval and oversight by Landlord.

Therefore, Landlord and Tenant agree to amend the Lease as follows:

1. Section 3. "**Capital Improvements and Repairs**", subsection c., of the Lease is deleted in its entirety and replaced by the following:

- c. Landlord will disburse Cazadero Camp T1 Funds in an amount not to exceed \$400,000 to Tenant, and Tenant shall use such funds to manage and complete the property improvements set forth in Table 2. Landlord and Tenant agree that such disbursement of the Cazadero Camp T1 Funds satisfies Landlord's obligations towards capital improvements under the Lease.

The Cazadero Camp T1 Funds will be disbursed according to the following schedule:

- Tenant will develop project scopes and budgets to complete the property improvements set forth in Table 2 and submit it to Landlord for review.
- Upon Landlord's approval of each project scope and budget, the lesser of 75% of the estimated project costs or \$300,000 will be advanced.
- Tenant will submit to Landlord all permits, invoices, and payment receipts.
- The lesser of any remaining project costs actually incurred or \$100,000 will be paid to Tenant upon completion each project, subject to Landlord's inspection and approval.

Tenant expressly acknowledges and agrees that all work must be completed in time for Landlord to disburse payments by December 31, 2025. Tenant further expressly acknowledges and agrees that total payments will not exceed \$400,000. Notwithstanding the foregoing, if any of the capital improvements set forth in Table 2 cannot be completed solely with the Cazadero Camp T1 Funds, Landlord and Tenant shall meet and negotiate in good faith to identify the best strategy for completing the work.

IN WITNESSS WHEREOF, City and Lessee have executed this Amendment as of the date written on the first paragraph above.

CITY OF BERKELEY

By:

City Manager

City Attorney

REGISTERED BY:

City Auditor

Deputy City Clerk

LESSEE:

BY:
Title:

City of Berkeley Business License No.