

ORDINANCE NO. 7,286–N.S.

LEASE AGREEMENT: NIA HOUSE LEARNING CENTER FOR CITY PROPERTY AT 2234-2240 NINTH STREET FOR OPERATION OF CHILD CARE PROGRAM AND RESCINDING ORDINANCE NO. 7,114-N.S.

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

Section 1. The Council of the City of Berkeley (the “Council”) finds as follows:

- a. The City of Berkeley (the “City”) owns certain real property located at 2234-2240 Ninth Street (the “Property”).
- b. On November 10, 2009, the City adopted Ordinance No. 7,114-N.S. to sell the real property located at 2240 Ninth Street and deposit the sales proceeds into the Housing Trust Fund for affordable housing.
- c. During the course of efforts to market the property at 2240 Ninth Street, City staff found the site provided challenges to prospective buyers, and any changes required to bring the parcel up to current zoning standards would negatively impact Nia House’s longstanding child care operations.
- d. Nia House Learning Center (Nia House) leases two City-owned parcels located at 2234 Ninth Street where it has operated an early childhood education program serving very low and low income families for 32 years.
- e. Nia House intends to expand its facilities to increase the number of child care slots in their program and is requesting a new long-term lease for use of City property at 2234-2240 Ninth Street for its child care program.
- f. Nia House needs a long-term lease to obtain a loan to construct improvements required for expansion of its program which will enable Nia House to increase the number of child care slots for very low and low-income families.
- g. Nia House is in the process of securing the financing to fund certain tenant improvements to the premises. As such, the City agrees to cooperate, as necessary or appropriate, with Nia House’s pursuit of said financing. The City Manager is authorized to execute any documents, petitions, applications, amendments to the lease and authorizations that may be reasonably necessary or appropriate, in City’s sole discretion, to that end.
- h. As a condition of the lease, Nia House shall be required to maintain an annual goal of filling 50% of the total child care slots with students who live in Berkeley upon the signing of the enrollment contract. This includes students whose families pay market rate tuition fees and those who receive scholarships in the form of reduced fees.

- i. In addition, Nia House shall reserve 50% of the scholarships, or reduced fees, to students who live in Berkeley and who are from extremely low, very low and low-income households upon the signing of the enrollment contract. If Nia House cannot meet the requirement of reserving 50% of the scholarships to Berkeley residents, Nia House must obtain a waiver to offer the scholarships to non-Berkeley residents. In any given year, the amount of scholarships reserved for Berkeley residents shall not be less than 33% of the total number of scholarships.
- j. In line with the City of Berkeley's 2020 Vision goals, Nia House will continue to prepare Berkeley's youth for school-readiness by offering affordable full-day, early childhood education programs for children and their families, creating opportunities for low-income parents to return to work or continue job-training and education and offering continued parenting lessons for all participating families

Section 2. The City Council hereby rescinds Ordinance No. 7,114-N.S. for the sale of 2240 Ninth Street and authorizes the City Manager to (1) execute a lease agreement and any amendments to the lease agreement with Nia House Learning Center (Nia House) for three City-owned parcels located at 2234-2240 Ninth Street for the purpose of operating a child care center and (2) give Nia House permission to seek a merger of the three parcels. Such lease shall be on substantially the terms set forth in Exhibit A.

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 Council Chambers, 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 May 21, 2013 this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.