

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

APPROVING A LEASE AND AUTHORIZING THE CITY MANAGER TO
EXECUTE DOCUMENTS NECESSARY TO IMPLEMENT THE TERMS
OF A LEASE WITH AUCTIONS BY THE BAY FOR FIVE YEARS IN
BUILDING 525 LOCATED AT 2751 TODD STREET AT ALAMEDA
POINT

WHEREAS, the City entered into the original agreement with Auctions By the Bay for Building 525 in January 2001 and the original lease was for six years with one five-year option; and

WHEREAS, the City Council approved the current lease, per Ordinance 3068, on May 7, 2013; and

WHEREAS, the lease includes the use of Building 525, a 23,208-square-foot premise; and

WHEREAS, the monthly base rent over the five years is \$10,163 per month for year one, \$10,468 per month for year two, \$10,782 per month for year three, \$11,105 per month for year four and \$11,438 per month for year five; and

WHEREAS, the sole purpose for which the premises may be used by the tenant is for warehouse, pre-sale viewing of antiques and other merchandise, auction house purposes, ancillary office uses and other uses permitted by the City of Alameda Use Permit; and

WHEREAS, the lease has been amended to allow the sale of arms and armor under the conditions prescribed in Exhibit A of the lease amendment and attached hereto as Exhibit A; and

WHEREAS, under the initial lease, the tenant performed significant capital investment in the property as part of developing the theater/auction house location, so the security deposit requirement has been waived and the lease contains the standard insurance, indemnity, assignment and termination clauses the ARRA required in its leases and compliant with the Lease in Furtherance of Conveyance (LIFOC) with the United States Navy.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda that by four affirmative votes that:

Section 1. The City Manager of the City of Alameda or his designee is hereby authorized to negotiate, execute, for and on behalf of the City of Alameda, a lease with Auctions By the Bay for five years in Building 525 located at 2751 Todd Street at Alameda Point, subject to such technical or clarifying revisions as are reasonably determined necessary

by the City Manager and approved by the City Attorney, and the City Clerk is hereby authorized and directed to attest to the same.

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance, for any reason, is held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council of the City of Alameda hereby declares that it would have passed this ordinance, and each section, subsections, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases are declared to be invalid and unconstitutional.

Section 3. This ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the Council

Attest:

Lara Weisiger, City Clerk
City of Alameda

EXHIBIT A

1. Gun and firearm sales shall be limited to firearms as defined as curios and relics, as it may be amended from time to time, which means that firearms must fall within one of the following categories:
 - a. Firearms which were manufactured at least 50 years prior to the current date, but not including replicas of such firearms; or
 - b. Firearms which are certified by the curator of a municipal, state, or Federal museum which exhibits firearms to be curios or relics of museum interest; or
 - c. Any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure or period, including the sale of replicas.
2. Sale and storage of ammunition, including gun powder shall be strictly prohibited.
3. Sale of assault rifles and firearms with high capacity magazines shall be strictly prohibited.
4. Testing or firing of firearms on the Property or in Alameda is strictly prohibited.
5. All firearms shall be secured in a vault when not on public display.
6. Security cameras shall be provided within the Building and on the exterior of the Building. Tapes shall be recorded and preserved for a period of at least 60 days.
7. Tenant shall provide an inventory list of all firearms to the Police Department on a monthly basis.
8. All display and sales shall be conducted within the Building.
9. There shall be no signs on the outside of the Building advertising firearms.
10. A security plan shall be submitted to the Alameda Chief of Police for review and approval prior to approval of the First Amendment to Lease.
11. Tenant shall comply with all Federal firearms sales, storage and repair requirements as directed by U.S. Department of Justice and Bureau of Alcohol, Firearms, Explosives.
12. Tenant shall comply with all State firearms sales, storage and repair requirements as directed by the State of California Department of Justice and State Board of Equalization.
13. No more than five (5%) percent of floor area of all of the available auction showroom floor space (approximately 4,350 sf) shall be devoted to uses relating to firearms.

Tenant shall notify the City in writing at least forty-five (45) days prior to the anniversary of the Effective Date of this First Amendment requesting an annual review of the conditions listed in this Exhibit A. To facilitate this review, Tenant shall submit a letter outlining its compliance with the terms of this Exhibit.

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the ____ day of _____, 2017, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2017.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Janet C. Kern, City Attorney
City of Alameda