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OFFICE OF THE CITY CLERK
OAKLAND

2016 NOV 22 PM 5:48

AGENDA REPORT

TO: Sabrina B. Landreth
ORSA Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: Proposed Sale of Real Property
822 Washington Street

DATE: November 21, 2016

ORSA Administrator Approval

Christina Del for SBL

Date:

11/22/16

RECOMMENDATION

Staff Recommends That The Oakland Redevelopment Successor Agency ("ORSA") Board Adopt: A Resolution Authorizing The ORSA Administrator or Designee To Negotiate And Execute A Purchase And Sale Agreement And Related Documents Between The Oakland Redevelopment Successor Agency And 11 West Partners, Or A Legal Entity Affiliated With 11 West Partners, For The Sale Of 822 Washington Street, Oakland, CA 94607 For Not Less Than One Million Eight Hundred Thousand Dollars (\$1,800,000), In A Form And Content Substantially In Conformance With The Term Sheet; and To Make Certain California Environmental Quality Act Exemption Findings

The term sheet can be found in **Attachment A**.

EXECUTIVE SUMMARY

822 Washington Street ("Property") (**Attachment B**) is an ORSA-owned property located in the historic Old Oakland District and is currently used for parking as part of a larger parking lot owned by the adjacent property owner. ORSA's State-approved Long Range Property Management Plan ("LRPMP") identified the Property in the category of "properties to be sold by ORSA", and in accordance with the dissolution of the Redevelopment Agency, the residual proceeds of sale will be shared among the local taxing entities based on their property tax shares.

The adjacent property owner, 11 West Partners, has submitted an offer to purchase the Property at the current fair market appraised value of \$1.8M (of which the City is expected to receive up to \$522,000 for its taxing entity share). The appraisal value reflects the parcel's contribution to a mixed-use development opportunity the adjacent property owner will have after assembling this mid-block parcel with its other adjacent parcels.

The Property will be sold in an "as is" condition. The terms of the transaction will be memorialized in a Purchase and Sale Agreement. The estimated close of escrow date is 60 days after ORSA Board approval. ORSA reserves the right to reject any and all contract terms presented by the buyer that are not deemed in the best interests of ORSA.

Item: _____
CED Committee
December 6, 2016

BACKGROUND / LEGISLATIVE HISTORY

The Property commonly known as the "8th and Washington lot" is an ORSA-owned property located in the heart of historic Old Oakland District. It is located on a portion of the block bounded by 8th Street, Washington Street, 9th Street, and Broadway. More specifically, the Property is in the middle of the block on Washington Street, between 8th Street and 9th Street. The Property is currently used for parking and is part of a larger parking lot.

On December 16, 1985, the City acquired the Property via condemnation to facilitate new construction in Old Oakland. The Property was acquired for \$360,240 and has been operating as a parking lot since. The 7,545+/- square foot parcel was leased to the former adjacent property owner, Peter Sullivan Associates Inc. ("PSAI"), to make a contiguous parking lot for the businesses occupying PSAI's buildings.

On May 20, 2014, the ORSA Board approved the LRPMP by Resolution No. 2014-004 C.M.S., and it was subsequently approved by the State Department of Finance. Under the LRPMP, properties proposed for sale will be sold for fair market value at their highest and best use. ORSA will follow the City's rules and procedures for disposing of surplus properties.

Pursuant to California Health and Safety Code § 34191.5(c)(2)(B), "If the [long-range property management] plan directs the liquidation of the property or the use of revenues generated from the property, ... the proceeds shall be distributed as property tax to the taxing entities." The net proceeds from the sale will be distributed as property tax to each taxing entity in an amount proportionate to its share of property tax revenues pursuant to California Health and Safety Code § 34188, to the extent permitted under bond covenants and Federal law. The City will receive 29 percent of the net sales proceeds, or up to \$522,000.

The Property is exempt from the California Surplus Land Act because the Property is a Redevelopment Agency parcel and was never in City use.

On September 30, 2015, PSAI sold its properties to 11 West Partners, while it was in the process of negotiating a sale of the Property with City staff. On October 6, 2016, 11 West Partners submitted a Letter of Intent to purchase the Property.

City staff has determined that the sale of the Property to 11 West Partners will yield ORSA the highest value and provide the City with greater benefits over time. In addition to its share of the purchase price and annual property tax, the City will also receive sales tax, create local jobs, increase housing inventory, and increase neighborhood commercial activity.

ANALYSIS AND POLICY ALTERNATIVES

Pursuant to Ordinance No. 13287 C.M.S. § 2.42.050(B)(5), "... the requirement to undertake a competitive process and to post notice of the proposed sale shall not apply to any of the following circumstances: ... The City Council has made a finding and determination that it is in the best interests of the City to sell the real property by negotiated sale.

While Resolution No. 85324 C.M.S. established a policy favoring the leasing over the sale of City properties, Resolution No. 2014-004 C.M.S. "allow[s] ORSA to proceed with the sale of various properties pursuant to Health and Safety Code Section 34191.5(c)(2);" Pursuant to California Health and Safety Code § 34191.5(c)(2), "The long-range property management plan shall ... [a]ddress the use or disposition of all of the properties in the trust. Permissible uses include ... the sale of the property,"

Alternative 1 – Sell to 11 West Partners

According to the appraisal report, combining the Property with the adjacent parcels will enhance its development potential and potentially increase its value per square foot. Once combined, it will be easier to accommodate below grade parking, achieve maximum residential and commercial intensity, handle construction staging, and enhance natural light.

Prospective buyer 11 West Partners is the new adjacent property owner and owns much of the parcels on the two blocks bounded by 8th Street, Washington Street, 10th Street, and Broadway. Combining the Property with the adjacent parcels will facilitate the highest and best use of the Property and ensure a high probability that 11 West Partners will propose a single unified development plan for these historic city blocks.

While ORSA could potentially obtain a higher sales price under a competitive bidding process by securing a buyer other than 11 West Partners, the City may find that the administrative costs of coordinating two different development projects with two developers would likely exceed any additional premium the City may achieve as to purchase price.

Although there is no guarantee that the project will be developed after the sale of the Property, the appraisal report indicates that: "It is a virtual certainty that most prospective buyers would consider demolishing the existing improvements and developing the site"

Alternative 2 – Sell on the open market

A competitive bidding process could potentially yield a higher value to the taxing entities than a direct sale at the appraised value. However, having multiple owners develop these parcels can make it more difficult to have uniformity in development and possibly make it more difficult to achieve optimal density. From an administrative standpoint, having to work with multiple developers and designs would also consume more City time and resources.

FISCAL IMPACT

The minimum acceptable purchase price of \$1.8M is based on the appraisal report.

The net proceeds from the sale will be distributed as property tax to each taxing entity in an amount proportionate to its share of property tax revenues pursuant to Health and Safety Code § 34188, to the extent permitted under bond covenants and Federal law. The City will receive 29 percent of the net sales proceeds, or up to \$522,000.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for the proposed policy action beyond the standard City Council agenda noticing procedures.

COORDINATION

This report and the actions discussed have been coordinated with staff from the ORSA Administrator's Office, the City Attorney's Office, Public Works, Facilities and Environment, and the Controller's Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: Selling the Property to 11 West Partners will yield ORSA the highest value and provide the City with greater economic benefits over time. Combining the Property with the adjacent parcels will facilitate the highest and best use of the Property. In addition to its share of the purchase price and annual property tax, the City will also receive sales tax, create local construction jobs (likely retail/office jobs), increase housing inventory, and increase neighborhood commercial activity.

Environmental: The appraisal report indicates: "If the subject site could be combined with one or more of the underutilized parcels on the same block, the highest and best use of the assemblage would... involve a mixed-use project consisting mainly of ground floor commercial retail/restaurant space and residential units at the maximum allowed density, but such a project also might include some upper level office space." Promoting mixed-use projects encourages people to live close to where they work and play. This reduces commuting, traffic, vehicles on the road, the need to own a vehicle, and the need to create more parking. Building housing at a higher intensity and density helps the environment.

The appraisal report also indicates, "a larger site potentially can benefit from enhanced natural light versus a very small site, particularly in cases where the larger site has at least one additional street frontage. ... If the parcels were combined, the assemblage would contain approximately 18,812 square feet of land are and would benefit from a corner setting at Washington Street and Eighth Street as well as substantial frontage on both streets." The Property, if acquired by 11 West Partners, would add over 100 feet of frontage on Washington Street and increase the potential for enhanced natural light. Reducing energy consumption as a consideration in the development process also helps the environment.

Social Equity: Sale of the Property will likely lead to additional housing in the City and to an opportunity for citizens to own real estate in the City. It will also assist in promoting real estate activity in the City. The City will receive 29 percent of the net sales proceeds distributed to the taxing entities, of which 25 percent of the City's share of the net unrestricted sales proceeds is required to be set aside in the Affordable Housing Trust Fund. Any new retail offerings will improve the quality of life for citizens and increase sales tax to the City.

CEQA

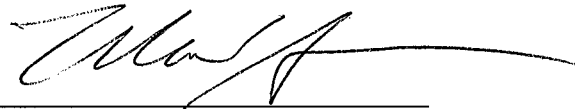
This report is not a project under the California Environmental Quality Act (CEQA).

ACTION REQUESTED OF THE ORSA BOARD

Staff Recommends That The ORSA Board Adopt: A Resolution Authorizing The ORSA Administrator or Designee To Negotiate And Execute A Purchase And Sale Agreement And Related Documents Between ORSA And 11 West Partners, Or A Legal Entity Affiliated With 11 West Partners, For The Sale Of 822 Washington Street, Oakland, CA 94607 For Not Less Than One Million Eight Hundred Thousand Dollars (\$1,800,000), In A Form And Content Substantially In Conformance With The Term Sheet; and To Make Certain California Environmental Quality Act Exemption Findings

For questions regarding this report, please contact James Golde, Manager, Real Estate Services Division at 510-238-6354.

Respectfully submitted,



MARK SAWICKI
Director, Economic & Workforce
Development

Reviewed by:
James Golde, Real Estate Manager
Real Estate Services Division

Prepared by:
Jinhua Su, Real Estate Agent
Real Estate Services Division

Attachments (2):

Attachment A: Term Sheet

Attachment B: Photo of Property

Item: _____
CED Committee
December 6, 2016

Attachment A
11 West Partners
902 Washington St, Oakland CA 94607

October 6, 2016

Mr. James Golde
Director of Real Estate Services
City of Oakland
250 Frank H. Ogawa Plaza
Oakland, California 94612

Dear Mr. Golde:

This Letter of Intent outlines the basic terms and conditions upon which 11 West Partners, and/or its assignee ("Buyer") proposes to purchase from the Oakland Redevelopment Successor Agency, successor agency of the Redevelopment Agency of the City of Oakland under California Health and Safety Code Section 34173 ("Seller") that certain real property commonly known as 822 Washington Street, Oakland, California (the "Property")

1. PROPERTY TO BE PURCHASED AND CONVEYED

The Property contains approximately 7,562 square feet of unimproved land which is currently used as a parking lot, as more particularly described on the preliminary title report issued by Old Republic Title Company, Order No. 1117016855-JS, dated May 16, 2016, and is to include all of Seller's rights in, under or to the Property, together with all improvements appurtenant thereto, and all of Seller's right, title and interest in and to (i) all rights, privileges, easements and appurtenances benefiting the Property including, without limitation, all development rights, water rights, easements, rights-of-way; (ii) all licenses, permits, entitlements, and governmental approvals which benefit the Property; (iii) all other interests belonging to Seller and related to the Property; and (iv) all personal property, leases, and contracts which Buyer elects to assume, if any.

2. PURCHASE PRICE

The purchase price for the Property will be One Million Eight Hundred Thousand Dollars (\$1,800,000.00) ("Purchase Price").

3. CONDITIONS PRECEDENT TO CLOSING

Buyer's obligation to close the transaction and purchase the Property shall be subject to the satisfaction of customary closing conditions, including, without limitation, the issuance of a title insurance policy. Seller's obligation to close the transaction and sell the Property to Buyer shall be subject to the approval of this transaction by the Oakland City Council.

4. COSTS

Buyer will pay all documentary transfer taxes incurred with respect to the transfer of the Property to Buyer, the premium for the owner's policy of title insurance issued to Buyer, and all recording fees, escrow fees and charges, and any other costs charged by the escrow agent concerning the closing of the Property. Each party will pay its own legal fees.

5. INSPECTION

Buyer, its representatives and consultants shall be allowed reasonable access to the Property and appropriate records for the purpose of making all inspections it deems necessary prior to the Closing Date (as hereinafter defined).

6. PURCHASE AGREEMENT

Subsequent to the City Council authorizing the sale of the Property, Seller shall deliver to Buyer a comprehensive draft agreement of purchase and sale (as executed, the "Purchase Agreement"), for Buyer's review and comment.

7. **CLOSING**

Closing will occur on the date which is thirty (30) days after execution of the Purchase Agreement, and satisfaction of all other closing conditions in favor of Buyer.

8. **EXPRESSION OF INTENT**

Buyer and Seller agree that the terms set forth herein are intended merely as an outline for negotiation of a potential purchase and sale transaction to be documented by formal written agreement, and only reflect our present understanding regarding the terms and conditions of the proposed transaction. Buyer and Seller agree that in no event does this letter constitute a formal or binding agreement and that the provisions hereof are not binding on either party except for Paragraph 9 of this letter. The legal rights and obligations of Buyer and Seller shall be only those which are set forth in such definitive Purchase Agreement when and if executed and delivered by both Buyer and Seller. Notwithstanding any provision to the contrary contained herein, this letter shall not constitute an agreement to negotiate and solely constitutes an outline of the terms of negotiation. Buyer and Seller each acknowledge and agree that each party is proceeding with negotiations related to the proposed transaction at its sole cost and expense (which may involve substantial transaction cost) and that either party may terminate negotiations for any reason, at any time, without any liability or obligation whatsoever.

9. **CONFIDENTIALITY**

Seller, Buyer and their respective agents (the "parties") each acknowledge that it is in the best interest of Buyer and Seller to maintain the confidentiality of the terms and provisions of the Purchase Agreement and the materials relating hereto. Except as otherwise provided herein, the parties shall not disclose any of the terms or provisions of the Purchase Agreement either prior to or subsequent to the Close of Escrow, to any person or entity not a party to the Purchase Agreement, nor shall any of the parties make or issue any news release, public announcement, denial, or confirmation of any part of the subject matter of the Purchase Agreement or Buyer's intended use of the Property, without the prior written consent of both Seller and Buyer. This restriction shall not apply to the extent a disclosure is required by applicable laws or regulations and/or to each of the parties' respective consultants, attorneys', and/or financial advisors. Each of the parties (as applicable, the "Indemnifying Party") shall indemnify, defend, and hold harmless the other parties from and against any losses, costs, and expenses that the applicable party may suffer or incur as a result of any breach by the Indemnifying Party of any provision of this paragraph.

If the terms and conditions herein meet with your approval, please execute a copy of this Letter in the space provided below.

We look forward to working with you on this transaction.

Sincerely,

11 West Partners

By: 

Name: Erwin Gonzalez

Title: Partner

AGREED AND ACCEPTED

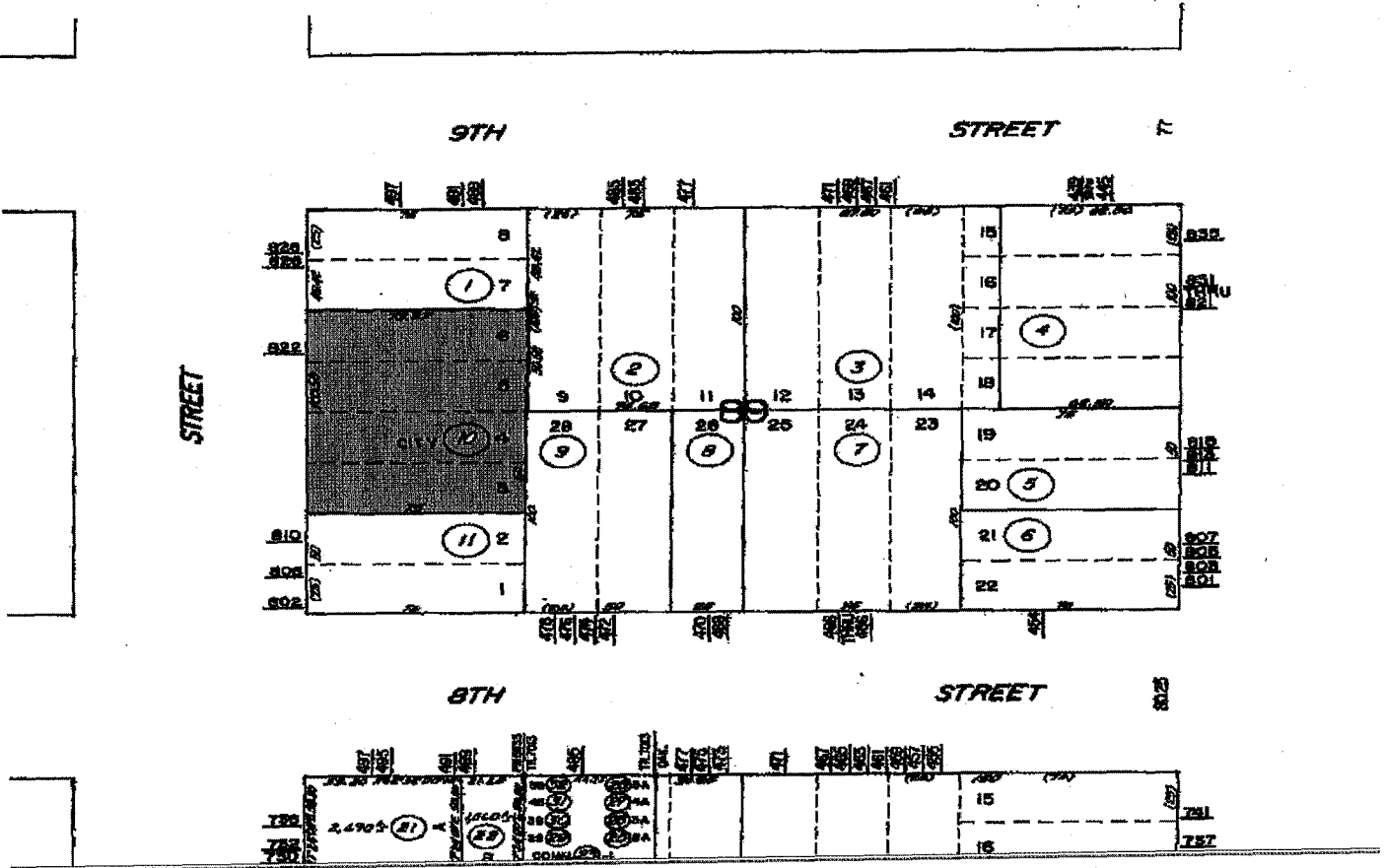
Oakland Redevelopment Successor Agency

By: _____

Name: _____

Title: _____

Attachment B: Parcel Map and Aerial Map of Subject Site



2016 NOV 22 PM 5:43

OAKLAND REDEVELOPMENT SUCCESSOR AGENCY

RESOLUTION NO. 2016-_____

A RESOLUTION AUTHORIZING THE ORSA ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS BETWEEN THE OAKLAND REDEVELOPMENT SUCCESSOR AGENCY AND 11 WEST PARTNERS, OR A LEGAL ENTITY AFFILIATED WITH 11 WEST PARTNERS, FOR THE SALE OF 822 WASHINGTON STREET, OAKLAND, CA 94607 FOR NOT LESS THAN ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$1,800,000), IN A FORM AND CONTENT SUBSTANTIALLY IN CONFORMANCE WITH THE TERM SHEET; AND TO MAKE CERTAIN CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION FINDINGS

WHEREAS, the Oakland Redevelopment Successor Agency ("ORSA") owns a vacant parking lot ("Property") consisting of about 7,545 square feet (APN: 1-201-10) located at 822 Washington Street as depicted in Attachment A; and

WHEREAS, the Property is to be sold in an "AS-IS" condition, and ORSA makes no representations regarding land use or other permitting issues that may affect the Property; and

WHEREAS, an independent contract appraisal establishes the Property's approximate value at \$1,800,000; and

WHEREAS, the Property's general plan classification is Central Business District, and the Property is zoned CBD-P/S-7, consistent with the area's current commercial uses; and

WHEREAS, 11 West Partners delivered a signed Letter of Intent dated October 6, 2016 for the purchase of the Property for \$1,800,000; and

WHEREAS, after the Property is sold to 11 West Partners, the City will receive property taxes; and

WHEREAS, pursuant to Ordinance No. 13287 C.M.S. § 2.42.050(B)(5), "... the requirement to undertake a competitive process ... shall not apply [if the ORSA Board] has made a finding and determination that it is in the best interests of the City to sell the real property by negotiated sale";

WHEREAS, pursuant to Resolution No. 85324 C.M.S., "... exceptions to this general policy [of lease rather than sell] may be made on a case-by-case basis;";

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of the Resources Agency, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore

Resolved: That the sale of the Property to 11 West Partners is in the City's best interest resulting in returning the Property to the tax rolls and generating revenue for the General Purpose Fund.

Resolved: That the ORSA Administrator, or designee, is authorized to enter into a Purchase Agreement for a sales price of not less than \$1,800,000 with 11 West Partners, and to execute a Quitclaim Deed conveying the Property.

Resolved: That pursuant to California Health and Safety Code § 34191.5(c)(2)(B), "If the [long-range property management] plan directs the liquidation of the property or the use of revenues generated from the property, ... the proceeds shall be distributed as property tax to the taxing entities." Therefore, the sales proceeds will be deposited into the SRA Central District Operations (9710), Real Estate Services Organization (88639), Surplus Property Account (48111), Real Estate Program (PS32), Undetermined Project (0000000), Undetermined Program (0000).

Resolved: That the ORSA Board finds and determines, based on the information in the staff report accompanying this Resolution, that it is in the best interests of ORSA to sell the real property by negotiated sale. Therefore, the ORSA Board waives the competitive process.

Resolved: That the ORSA Board finds and determines that ORSA's Long Range Property Management Plan (approved by Resolution No. 2014-004 C.M.S.) already "allow[s] ORSA to proceed with the sale of various properties...." Therefore, the ORSA Board waives the requirement that the ORSA Administrator provide reasons to support a sale rather than a lease of the Property.

Resolved: That the ORSA Board has independently reviewed and considered this environmental determination, and the ORSA Board finds and determines, based on the information in the staff report accompanying this Resolution, that it can be seen with certainty that there is no possibility that the conveyance of the Property by ORSA to 11 West Partners may have a significant effect on the environment. Therefore, this action is not a project under the California Environmental Quality Act (CEQA).

Resolved: That the ORSA Administrator and the Manager of the Real Estate Division are hereby authorized to negotiate, execute, amend, modify, or extend all agreements, and to take any and all actions necessary, consistent with this Resolution, to complete the sale of the Property.

Resolved: That the Purchase Agreement and any other documents necessary for the sale of this Property shall be approved as to form and legality by the ORSA Counsel's Office, and a copy shall be filed with the Office of the City Clerk.

Resolved: That this Resolution shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

BY SUCCESSOR AGENCY, OAKLAND, CALIFORNIA

PASSED BY THE FOLLOWING VOTE:

BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON MCELHANEY

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons, Secretary
of the Oakland Redevelopment
Successor Agency

DATE OF ATTESTATION: _____