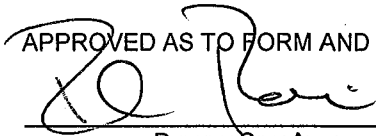


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APPROVED AS TO FORM AND LEGALITY  
  
DEPUTY CITY ATTORNEY

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH OAKLAND AND THE WORLD ENTERPRISES, INC., OR AN AFFILIATED ENTITY, FOR THE SALE OF PROPERTY AT 7<sup>TH</sup> STREET AND CAMPBELL STREET FOR DEVELOPMENT AS A MIXED USE AFFORDABLE HOUSING DEVELOPMENT, AND MAKING CEQA FINDINGS FOR THIS ACTION**

**WHEREAS**, the City owns six contiguous vacant parcels of land located at the northwest corner of 7th and Campbell Streets (together, the "Property"), consisting of 0.71 acres, as more particularly described in the staff report accompanying this Ordinance; and

**WHEREAS**, the City obtained ownership of the Property between 2013 and 2015 by foreclosing on several defaulted site acquisition loans provided by the Redevelopment Agency of the City of Oakland from the Redevelopment Agency's Low and Moderate Income Housing Fund for affordable housing development purposes; and

**WHEREAS**, during the Fall of 2014, Oakland and the World Enterprises, Inc. ("OAW"), a California nonprofit public benefit corporation, submitted a proposal for development of the site with affordable housing, an urban farm, and complimentary retail and light industrial uses; and

**WHEREAS**, on January 20, 2015, pursuant to City Council Resolution No. 85373 C.M.S. passed on January 20, 2015, the City and OAW entered into an Exclusive Negotiating Agreement ("ENA") to identify development partners, conduct feasibility analyses for the project and negotiate the terms of the disposition of the Property during the ENA period;

**WHEREAS**, OAW has proposed to develop between 60 to 79 units of housing affordable to households earning between 30% to 60% of Area Median Income, an urban farm, and approximately 34,000 square feet of new neighborhood-serving retail and commercial uses, which include a strong component of both housing and employment/job training for formerly incarcerated individuals (the "Project"); and

**WHEREAS**, the City and OAW will enter into a Disposition and Development Agreement (“DDA”), which will set forth the terms and conditions under which the City will dispose of the Property to OAW and/or affiliated entities, and by which OAW will construct the Project on the Property; and

**WHEREAS**, the sale of the Property to OAW for development and operation of affordable housing, an urban farm, and neighborhood serving retail, will further the health, safety, and general welfare of the residents of the City of Oakland by improving access to affordable housing, local goods and services, and employment opportunities for the formerly incarcerated in the West Oakland community; and

**WHEREAS**, the development of the Property will eliminate physical blight, bring a vacant property to productive economic use, and act as a catalyst for the 7th Street commercial district, and will generate financial benefits for the City from property taxes, business license taxes, sales taxes, and utility taxes; and

**WHEREAS**, Section 2.42.140, et seq., of the Oakland Municipal Code authorizes the City to sell or lease real property for development by ordinance; and

**WHEREAS**, Resolution No. 85324 C.M.S established a general City policy giving preference for long-term ground leases over outright fee sales on development projects, but allows for an exception on a case-by-case basis if the City Council makes a finding that a sale of the property is in the best interests of the City; and

**WHEREAS**, Section 2.42.180 of the Oakland Municipal Code authorizes the City to dispose of property at its fair reuse value as assessed based on the property’s proposed development and use, prevailing market conditions, development climate at the time of disposition, and other economic and noneconomic factors, and requires findings to justify any below-market disposition; and

**WHEREAS**, a reuse value analysis undertaken by Economic and Planning Systems on behalf of the City concludes that, based on a financial feasibility analysis of the proposed project, the fair reuse value of the Property is nominal; and

**WHEREAS**, given the financial feasibility of the proposed project and the need to make the Project work, the sale of the Property to OAW at a nominal cost is necessary; and

**WHEREAS**, California Government Code Section 53083 requires a city to provide certain information and hold a noticed public hearing before granting an “economic development subsidy,” such as a land price subsidy, that is made for the purpose of stimulating economic development; and

**WHEREAS**, the staff report accompanying this Ordinance includes all of the information about this Project and the land price subsidy required under California Government Code Section 53803; and

**WHEREAS**, a noticed public hearing of the City Council was held to hear public comments on this transaction pursuant to California Government Code Section 53083; now, therefore

The Council of the City of Oakland does ordain as follows:

**SECTION 1.** The City Council hereby authorizes the sale of the Property to OAW, or an affiliated entity approved by the City Administrator, for a nominal price, in return for an agreement by the developer to develop and operate the Project as affordable housing, an urban farm and supporting retail uses.

**SECTION 2.** The City Council hereby authorizes the City Administrator or her designee to negotiate and execute a Disposition and Development Agreement with OAW, or an affiliated entity approved by the City Administrator, for the sale and development of the Property consistent with the terms of this Ordinance, as well as negotiate and execute any other agreements or documents as necessary to convey the Property to OAW upon the satisfaction of any preconveyance conditions imposed by the City Administrator or her designee.

**SECTION 3.** As a condition of the conveyance, the City will require that appropriate restrictions on occupancy, rents and operations for affordable housing units developed as part of the Project be recorded against Project improvements.

**SECTION 4.** The City Council, pursuant to Oakland Municipal Code Section 2.42.170.B., hereby waives a competitive Notice of Development Opportunity (“NODO”) process for disposition of the Property, and finds and determines that disposition of the Property without a competitive NODO process is in the best interest of the City because of the urgency of getting the vacant, underutilized and prone to blight site under development, and the compelling development program proposed by OAW, and the disposition through a competitive NODO process would have been impractical because the OAW’s proposal included a viable short-term use for the property as well as long-term development, which is beneficial to both the City and the surrounding neighborhood.

**SECTION 5.** Based on the reuse value analysis by Economic and Planning Systems concluding that the fair reuse value of the Property is nominal, and given the financial feasibility of the proposed Project and the need to make the Project work, the City Council hereby finds that the sale of the Property to OAW at a nominal cost is necessary and in the best interests of the City. Because the Property is being conveyed at less than fair market value, all City employment and contracting programs shall apply.

**SECTION 6.** The City Council hereby finds and determines that a fee sale of the Property, rather than a long-term ground lease, is in the best interests of the City for the following reasons:

- For the affordable housing component of the Project, a ground lease structure would make an already challenging financing more difficult in an environment where funds for

affordable housing development are scarce, especially given the fact that OAW will lease project units to ex-felons and those with criminal records.

- For the commercial component of the Project, a ground lease structure would be difficult to finance given that some of the commercial businesses will be owned and operated by ex-felons and other vulnerable populations.
- Notwithstanding the lack of a ground lease, the City will retain significant control over the Property and the Project via a 55-year recorded Regulatory Agreement, which will require that the affordable residential units remain affordable to targeted incomes groups.

**SECTION 7.** All agreements associated with the Property and the Project shall be reviewed and approved as to form and legality by the Office of the City Attorney prior to execution by the City, and shall be placed on file with the City Clerk.

**SECTION 8.** The City Council finds and determines that the conveyance of the Property for the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15332 of the CEQA regulations (In-fill Exemption), 15183 (Projects Consistent with a Community Plan or Zoning) and 15183.3 (Streamlining for Infill Projects). The City Administrator or her designee is hereby authorized to file a notice of determination with the Office of the Alameda County Recorder and the State Office of Planning and Research, and to take any other action necessary in furtherance of the Project consistent with this Ordinance and its basic purposes.

**SECTION 9.** The record before this Council relating to this Ordinance includes, without limitation, the following:

- A. All staff reports, decision letters and other documentation and information produced by or on behalf of the City, and all notices relating to this Ordinance and the DDA;
- B. All oral and written evidence received by City staff and the City Council before and during the consideration of this Ordinance;
- C. All matters of common knowledge and all official enactments and acts of the City, such as (1) the General Plan; (2) the Oakland Municipal Code, including, without limitation, the Oakland real estate regulations; (3) the Oakland Planning Code; (4) other applicable City policies and regulations; and (5) all applicable state and federal laws, rules and regulations.

**SECTION 10.** The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) the Office of Housing And Community Development, 250 Frank H. Ogawa Plaza, 5th floor, Oakland CA; (b) Planning and Neighborhood Preservation Department, Planning Division, 250 Frank H. Ogawa Plaza, 3rd floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> floor, Oakland, CA.

**SECTION 11.** The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

**SECTION 12.** This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2017

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN,  
KALB, KAPLAN AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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**NOTICE AND DIGEST**

This Ordinance authorizes the sale of City-owned real property located at 7<sup>th</sup> Street and Campbell Street to Oakland and the World Enterprises, Inc., at a nominal cost for development of affordable housing, an urban farm and supporting retail uses on the site. This Ordinance also authorizes the City Administrator to negotiate and enter into a Disposition and Development Agreement with Oakland and the World Enterprises, Inc., for this transaction, and makes associated findings with respect to the California Environmental Quality Act (CEQA) and other matters.