

# OAKLAND OVERSIGHT BOARD

## MEMORANDUM

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**TO:** Oakland Oversight Board

**FROM:** Sarah T. Schlenk

**SUBJECT:** Proposed Sale of Real Property  
822 Washington Street

**DATE:** January 23, 2017  
**ITEM:** #4

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### RECOMMENDATION

Staff recommends that the Oakland Oversight 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 Therewith, For The Sale Of 822 Washington Street, Oakland, California 94607 For Not Less Than One Million Eight Hundred Thousand Dollars (\$1,800,000); and To Make Certain California Environmental Quality Act Exemption Findings

A Letter of Intent (“LOI”) from 11 West Partners (“Buyer”), relating to the sale by ORSA of 822 Washington Street, Oakland, California 94607 (“Property”), is attached hereto as *Exhibit A* and is incorporated by this reference. The LOI shall be used to assist with the drafting of the purchase and sale agreement and related documents for the Property.

### EXECUTIVE SUMMARY

A photograph of the Property is attached hereto as *Exhibit B*. The Property is an ORSA-owned property located in the heart of historic Old Oakland District and is currently used for parking and is part of a larger parking lot. The adjacent properties are also owned by the Buyer. ORSA’s State-approved Long Range Property Management Plan (“LRPMP”) identified the Property in Section D as “Properties Proposed for Sale”, and in accordance with the dissolution of the Redevelopment Agency, 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 Section 34188. A chart reflecting such distributions is attached hereto as *Exhibit C*.

The Buyer has submitted an offer to purchase the Property at the current fair market appraised value of \$1.8M (of which the City of Oakland is expected to receive approximately \$488,387.18 for its taxing entity share based on net proceeds of \$1.7M, assuming closing costs of \$100,000). The appraised fair market value reflects the Property’s highest and best use as a mixed-use

development opportunity that the Buyer will have after assembling the Property with its other adjacent properties.

The Property will be sold in an “as is” condition. California Health and Safety Code Section 34181 requires that the disposition of LRPMP properties in the “Properties Proposed for Sale” category be approved by the Oversight Board, which approval is then subject to review by the State’s Department of Finance (“DOF”).

The terms of the transaction will be memorialized in a purchase and sale agreement to be drafted by staff and reviewed by the Oakland City Attorney’s Office as Counsel to ORSA. The estimated close of escrow date is 60 days after ORSA Board approval and DOF review. ORSA reserves the right to reject any and all contract terms presented by the Buyer that are not deemed to be in the best interests of ORSA.

### **BACKGROUND/LEGISLATIVE HISTORY**

The Property commonly known as the “8th and Washington lot” with the street address of 822 Washington Street, Oakland, CA 94607 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 Redevelopment Agency acquired the Property via condemnation to facilitate new construction in the historic Old Oakland District. 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, and it was subsequently approved by the DOF. Under the LRPMP, properties proposed for sale will be sold for fair market value at their highest and best use. Pursuant to ORSA Resolution No. 2012-0002, ORSA will follow the City’s rules and procedures for disposing of real 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 28.7 percent of the net sales proceeds, or approximately \$488,387.18.

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

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

City staff believes that the sale of the Property to the Buyer will yield ORSA the highest value and provide the City with greater benefits over time. As a parking lot, the Property generates almost \$50,000 per year. A potential mixed-use development on the Property and the adjacent properties could generate property tax revenues of over \$450,000 per year. The property tax revenues attributable to the square footage that the Property would contribute to a potential mixed-use development could be over \$150,000. In addition to its share of the net sales proceeds from the sale of the Property and annual property tax, the City, as a taxing entity, may use its share to create local jobs, increase housing inventory, increase neighborhood commercial activity, and possibly receive sales tax.

## **ANALYSIS**

Pursuant to ORSA Resolution No. 2012-0002, ORSA will follow the City's rules and procedures for disposing of real properties. Section 2.42.050(B) entitled "Waiver of Competitive Process" of City Ordinance No. 13287 provides for the waiver of the competitive sales process. Subsection 5 thereof provides that "... 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." Since the Property is ORSA owned, the ORSA Board must make such a finding and determination in the proposed Resolution.

ORSA 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, ...."

### **OPTION #1 – SELL TO 11 WEST PARTNERS**

According to the appraisal conducted by Fabbro, Moore & Associates, Inc., dated August 31, 2016 ("Appraisal Report"), combining the Property with the adjacent properties will enhance its development potential and potentially increase its value per square foot. Pursuant to the Appraisal Report, once combined, it will be easier to accommodate below grade parking, achieve maximum residential and commercial intensity, handle construction staging, and enhance natural light.

The Buyer 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 properties will likely facilitate the highest and best use of the Property and

ensure a high probability that the Buyer 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 the Buyer, the City may find that the administrative costs of coordinating two different development projects with two developers would likely exceed any additional premium that 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 ...”.

#### OPTION #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 California Health and Safety Code § 34188, to the extent permitted under bond covenants and Federal law. The City will receive 28.7 percent of the net sales proceeds, or approximately \$488,387.18.

#### CEQA

In accordance with the California Environmental Quality Act (CEQA), the proposed sale of property, alone, is not a project with the potential for causing a significant effect on the environment and is exempt from CEQA review pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines.

For questions regarding this report, please contact Jinnhua Su at (510) 238-6362.

Respectfully submitted,

/s/

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James Golde,  
Real Estate Manager

***ATTACHMENTS:***

- Exhibit A – Letter of Intent
- Exhibit B – Photo of Property
- Exhibit C – Distributions
- Oversight Board Resolution
  - Attachment A – Photo of Property

**Exhibit 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**

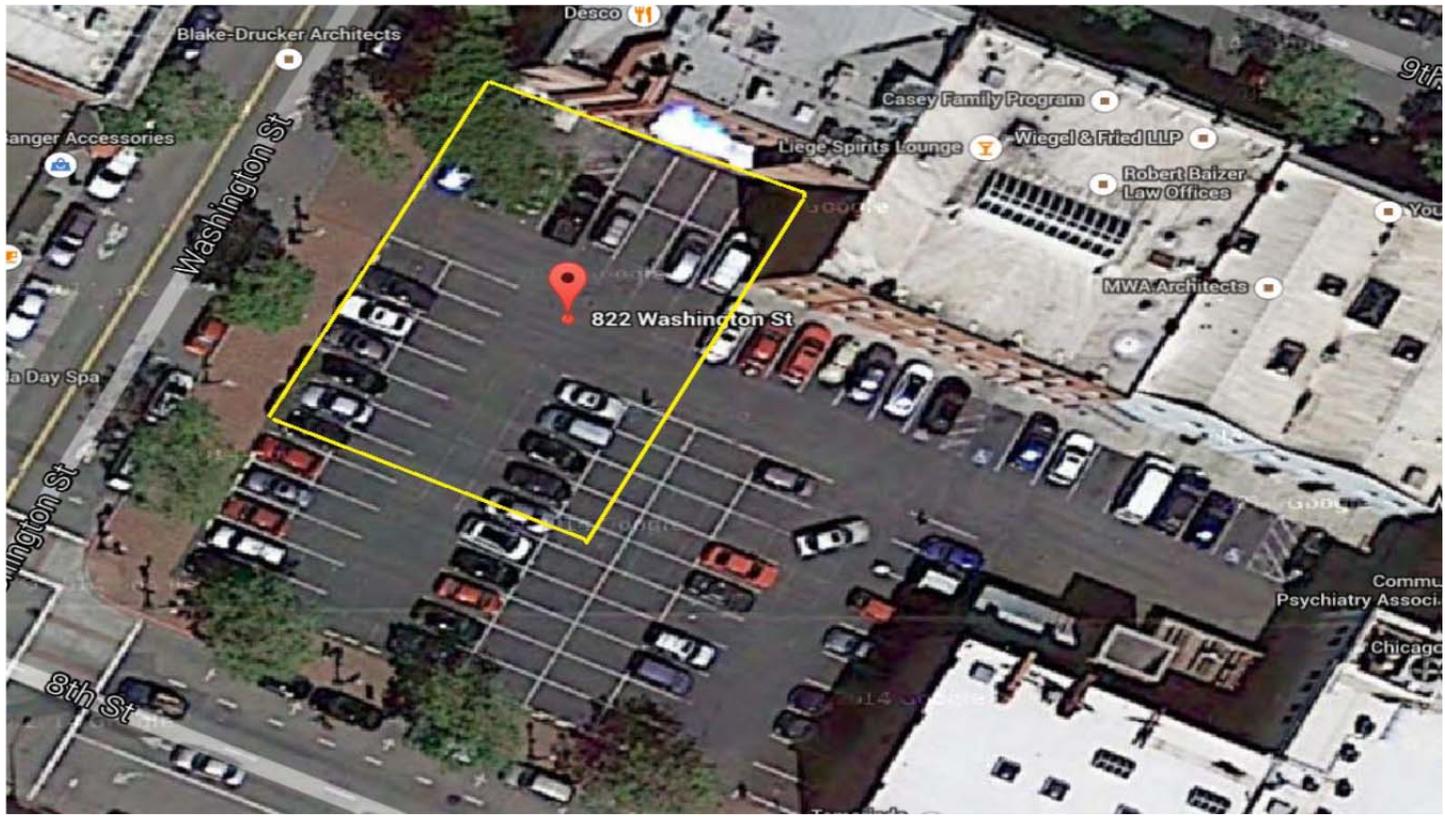
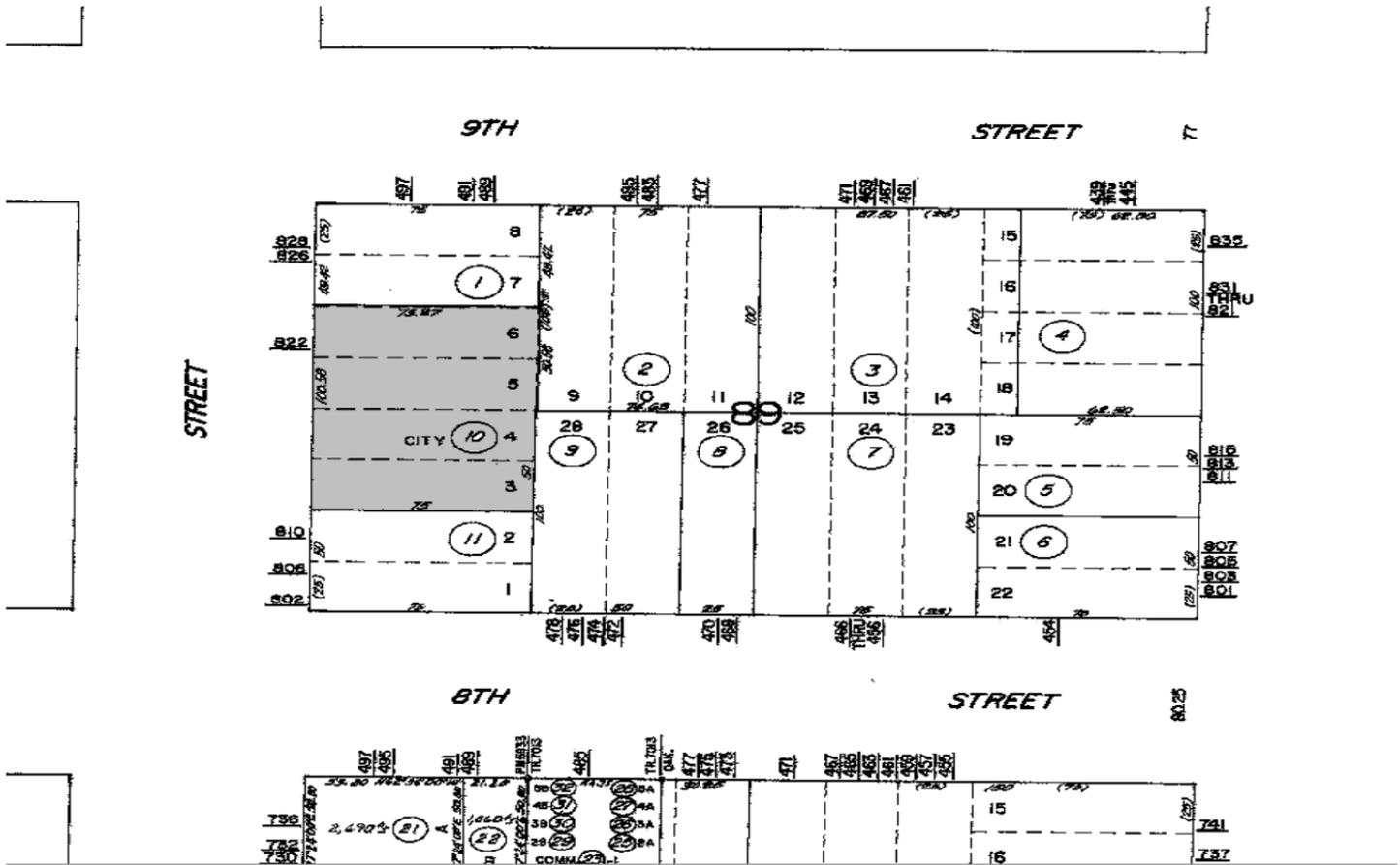
Oakland Redevelopment Successor Agency

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit B: Parcel Map and Aerial Map of Subject Site**



**Exhibit C: Distributions**

FUND	JURISDICTION	Ratio %	Amounts
1005	COUNTY - GENERAL FUND	18.8109301%	319,785.81
3003	CHABOT LAS POSITA COLL**	0.0000000%	0.00
3004	PERALTA C.C.	2.6418853%	44,912.05
3010	OAKLAND UNI.	18.6689481%	317,372.12
3014	SAN LEANDRO UNIFIED**	0.0000000%	0.00
4010	CO. SUPT INST PUPILS	0.1466731%	2,493.44
4011	CO. SUPT. JUV. HALL ED.	0.0303563%	516.06
4012	CO. SUPT. SERVICE	0.0911555%	1,549.64
4013	CO. SUPT. CAPITAL	0.0702360%	1,194.01
4015	SCH DEVELOP CENTER**	0.0000000%	0.00
4020	SCH AUDIO VIS CAP**	0.0000000%	0.00
7070	FLOOD CONTROL	0.1246009%	2,118.22
7113	FLOOD CONTROL ZONE 12	1.8340527%	31,178.90
7115	B.A. AIR QUALITY MGMT.	0.1850815%	3,146.39
7135	MOSQ. ABATEMENT	0.0860400%	1,462.68
7161	AC TRANSIT SP. DIST. 1	4.6286531%	78,687.10
7165	BART	0.5434985%	9,239.47
7180	E.B. REGIONAL PARK	2.4224527%	41,181.70
7205	EBMUD	1.4493684%	24,639.26
7268	EBMUD SP. DIST. 1	0.5172166%	8,792.68
9040	CITY OF OAKLAND	28.7286574%	488,387.18
B9040	CITY OF OAKLAND BONDS	0.0000000%	0.00
9043	OAKLAND KNOWLAND ZOO	0.1765233%	3,000.90
9892	ERAF	18.8436705%	320,342.40
TOTAL		100.0000000%	\$1,700,000.00

Note: Amounts based on net proceeds of \$1.7M. Assuming closing costs of \$100,000.

# OAKLAND OVERSIGHT BOARD

RESOLUTION No. 2017-\_\_\_\_\_

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**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 THEREWITH, FOR THE SALE OF 822 WASHINGTON STREET, OAKLAND, CALIFORNIA 94607 FOR NOT LESS THAN ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$1,800,000); AND TO MAKE CERTAIN CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION FINDINGS**

**WHEREAS**, ORSA owns a vacant parking lot consisting of about 7,545 square feet located at 822 Washington Street, Oakland, California 94607 (“Property”). A photograph of the Property is attached hereto as 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 contractor’s appraisal establishes the Property’s fair market value at \$1,800,000; and

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

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

**WHEREAS**, 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 Section 34188; and

**WHEREAS**, ORSA 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, ....”.

NOW THEREFORE, be it

**Resolved:** That the ORSA Board find and determines that the sale of the Property to the Buyer is in the ORSA’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 the Buyer, 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), and Undetermined Program (0000).

**Resolved:** That the Oakland Oversight 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 the sell the real property by negotiated sale. Therefore, the Oakland Oversight Board waives the competitive process.

**Resolved:** That the Oakland Oversight Board finds and determines that ORSA’s Long Range Property Management Plan (approved by Resolution No. 2014-004 C.M.S.) “allow[s] ORSA to proceed with the sale of various properties....”

**Resolved:** That the Oakland Oversight Board finds and determines, that in accordance with the California Environmental Quality Act (CEQA), the proposed sale of property, alone, is not a project with the potential for causing a significant effect on the environment and is exempt from CEQA review pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines.

**Resolved:** That the ORSA Administrator and the Manager of the Real Estate Division are hereby authorized to negotiate and execute the purchase and sale agreement and related documents, 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, and a copy shall be filed with ORSA’s Secretary of Board.

**Resolved:** That this Resolution shall become effective immediately upon final adoption.

ADOPTED, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2017

**PASSED BY THE FOLLOWING VOTE:**

AYES- BYRD, CHAIR CARSON, LITTLE, MULVEY, ORTIZ, TUCKER

NOES-

EXCUSED-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
SECRETARY, OAKLAND  
OVERSIGHT BOARD

Attachment A: Parcel Map and Aerial Map of Subject Site

