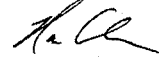


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OFFICE OF THE CITY CLERK  
OAKLAND

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APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. ~~13664~~ **13664** C.M.S.

ORDINANCE AUTHORIZING THE CITY OF OAKLAND (CITY) TO CONDUCT THE FOLLOWING EXCHANGE OF PROPERTIES WITH THE OAKLAND UNIFIED SCHOOL DISTRICT, A CALIFORNIA PUBLIC SCHOOL DISTRICT (DISTRICT):

- (1) ACQUISITION OF APPROXIMATELY 44,791 SQUARE FEET OF REAL PROPERTY LOCATED AT MARSTON CAMPBELL PARK NEAR THE INTERSECTION OF 16TH STREET AND MARKET STREET FROM THE DISTRICT AT NO COST TO THE CITY PURSUANT TO OAKLAND MUNICIPAL CODE (OMC) SECTION 2.41.020 AND SECTION 219(6) OF THE CITY CHARTER;
- (2) DISPOSITION OF APPROXIMATELY 25,939 SQUARE FEET OF REAL PROPERTY LOCATED AT 1700 MARKET STREET TO THE DISTRICT AT NO COST PURSUANT TO OMC SECTION 2.42.050;
- (3) ACQUISITION OF AN EASEMENT FROM THE DISTRICT OVER APPROXIMATELY 13,884 SQUARE FEET OF REAL PROPERTY LOCATED IMMEDIATELY ADJACENT TO 1700 MARKET STREET FOR THE PURPOSE OF PROVIDING IRRIGATION FACILITIES TO MARSTON CAMPBELL PARK PURSUANT TO OMC SECTION 2.41.060;
- (4) ALLOCATING A NOT TO EXCEED AMOUNT OF TEN THOUSAND DOLLARS (\$10,000) FOR ASSOCIATED CLOSING COSTS AND FEES; AND
- (5) MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT AND SURPLUS LAND ACT FINDINGS

WHEREAS, the City of Oakland (City) owns and operates a park called Marston Campbell Park located on 16th Street between Market Street and West Street (Park Site); and

WHEREAS, the Oakland Unified School District (District) currently leases to KIPP Bridge Academy (KIPP), a public charter school, land and facilities at the District's former

Lafayette Elementary School site, located at 1700 Market Street, Oakland, California, 94607 (School Site), pursuant to a Ground Lease – Joint Use Agreement; and

**WHEREAS**, upon KIPP's investigation of title to the School Site for purposes of securing financing to rehabilitate the School Site, the Parties discovered that the City owns title to an approximately 25,939 square foot portion of the land underlying the School Site (the City-Owned School Property), and that the District owns title to an approximately 58,675 square foot portion of the Park Site (District-Owned Park Property). Both the City-Owned School Property and the District-Owned Park Property are depicted in **Exhibit A** attached and incorporated herein; and

**WHEREAS**, the District and the City for many decades have acted as if title to the entire School Site was vested in the District, and title to the adjacent Park Site was vested solely in the City, including by installing improvements on the properties; and

**WHEREAS**, in order to further harmonize legal ownership with the previously presumed ownership of the School Site and the Park Site and reflect how the properties have been treated and maintained by the Parties for many years, and further in order to facilitate KIPP to secure financing for improvements of the School Site, the Parties now desire to engage in a proposed property exchange of the 25,939 square foot portion of City-Owned School Property for 44,791 square feet of District-Owned Park Property as depicted in **Exhibit B** attached and incorporated herein (referred to hereafter as the Property Exchange); and

**WHEREAS**, the District desires to retain ownership of the remaining District-Owned Park Property, which consists of an approximately 13,884 square feet of land immediately adjacent to the School Site (Retained District Property) with District improvements, including but not limited to school steps, pedestrian pathways to the school, and a school garden, as depicted in Exhibit B; and

**WHEREAS**, in order to allow the City continued access to certain irrigation facilities and improvements previously installed by the City on the Retained District Property, the District, concurrently with the Property Exchange, desires to grant to the City an easement to access and maintain the City's irrigation and landscaping improvements installed on the Retained District Property (Easement), in accordance with the terms and conditions of a proposed Property Exchange Agreement and Grant of Easement (Agreement), attached and incorporated herein as **Exhibit C**; and

**WHEREAS**, the land underlying the School Site is currently zoned RM-2, allowing for residential mixed use, and the land underlying much of the Park Site is zoned OS (NP), allowing for primarily public open space uses; and

**WHEREAS**, transfer of the City-Owned School Property to the District in exchange for the District-Owned Park Property and Easement is in the best interest of the City as it resolves a title discrepancy, enables continued operation of Marston Campbell Park, and enables continued operation and rehabilitation of the School Site, which educates Oakland youth; and

**WHEREAS**, contingent upon City approval of the Property Exchange and consistent with Title 16 Subdivisions of the Oakland Municipal Code, the Parties desire to re-draw the boundary between the School Site and Park Site through a subdivision map to be subsequently approved by the City (Subdivision Map), with the eventual Property Exchange to be accomplished by the City quitclaiming all interests it has on one side of the boundary line to the District excepting therefrom the Easement, and the District quitclaiming all interests it has on the other side of the boundary line to the City; and

**WHEREAS**, after adoption by a two-thirds vote of its members of a resolution declaring its intention to exchange property, California Education Code sections 17536-17538 authorize a governing board of a school district to exchange any of its real property for real property of another person or private business entity without having to comply with the surplus property requirements contained in the Education Code; and

**WHEREAS**, at the District's Board meeting on September 8, 2021, the District's Board adopted Resolution No. 2122-0075 authorizing and approving the Property Exchange in accordance with Education Code sections 17536-17538; and

**WHEREAS**, the proposed Property Exchange constitutes "exempt surplus land" as the City-Owned School Property is surplus land that the City as a local agency is exchanging for the District-Owned Park Property for the City's use as a public park (Gov. Code Section 54221(f)(1)(C)) and the City is transferring the City-Owned School Property to the District for the District's use (Gov. Code Section 54221(f)(1)(D)) in accordance with the Surplus Lands Act (California Government Code Sections 54220, et seq.); and

**WHEREAS**, Section 2.41.020 of the Oakland Municipal Code authorizes the City to acquire the District-Owned Property by grant and such acquisition of real property by the City must be authorized by an ordinance enacted by the City Council pursuant to Section 219(6) of the City Charter; and

**WHEREAS**, Section 2.42.050.C of the Oakland Municipal Code authorizes the disposition of the City-Owned Property by an ordinance enacted by the City Council; and

**WHEREAS**, Section 2.41.060 of the Oakland Municipal Code authorizes the City to acquire the proposed easement for irrigation purposes over the Retained District Property by grant and such acquisition of an easement by the City must be authorized by an ordinance enacted by the City Council pursuant to Section 219(6) of the City Charter; and

**WHEREAS**, the actions authorized by this ordinance are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) (General Rule) and 15301 (Existing Facilities); and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Acquisition of Park Property.** The City Council hereby authorizes the City to acquire by grant deed approximately 44,791 square feet of District-Owned Park Property as depicted in Exhibit B attached and incorporated herein for purposes of continued City operation of Marston Campbell Park.

**SECTION 2. Disposition of School Property.** The City Council hereby authorizes the City to dispose by grant deed approximately 25,939 square foot of City-Owned School Property as depicted in Exhibit B for purposes of the District's continued use as a school facility.

**SECTION 3. Acquisition of Irrigation Easement.** The City Council hereby authorizes the City to acquire an easement over the approximately 13,884 square foot Retained District Property as depicted in Exhibit B for purposes of the City's continued use of irrigation facilities for Marston Campbell Park.

**SECTION 4. Closing Costs.** The City Council hereby allocates a not to exceed amount of Ten Thousand Dollars (\$10,000) from the General Purpose Fund (1010), Real Estate Services Organization (85231), Surplus Property Project (1000235), Real Estate Program (PS32) to cover closing costs and fees associated with the proposed real estate transaction.

**SECTION 5. City Administrator.** The City Council hereby authorizes the City Administrator, or his designee, to negotiate and execute agreements and grant deeds with District for the proposed Property Exchange and grant of Easement, and to take any other action with respect to the Property Exchange consistent with this Ordinance and its basic purposes, subject to prior review and approval of the City Attorney.

**SECTION 6. Environmental Findings.** The City Council hereby finds and determines, on the basis of substantial evidence in the record, that this transaction is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), which exempts projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and Section 15301, which exempts the operation of existing public or private structures or facilities, involving negligible or no expansion of existing or former uses.

**SECTION 7. Surplus Land Act Findings.** The City Council hereby declares the City-Owned School Property is "exempt surplus land" that the City as a local agency is exchanging for the District-Owned Park Property for the City's use as a public park (Gov. Code Section 54221(f)(1)(C)) and the City is transferring the City-Owned School Property to the District for the District's use (Gov. Code Section 54221(f)(1)(D)) in accordance with the Surplus Lands Act (California Government Code Sections 54220, et seq.)

**SECTION 8. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each

section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 9. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

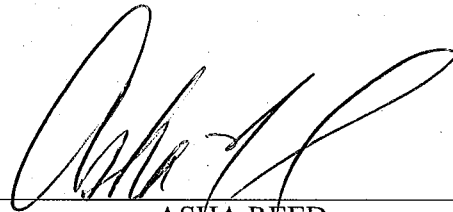
**NOV 02 2021**

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS - 8

NOES - 0  
ABSENT - 0  
ABSTENTION - 0

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the  
City of Oakland, California

Date of Attestation: November 9, 2021

Introduction Date

**OCT 19 2021**



**NOTICE AND DIGEST**

**ORDINANCE AUTHORIZING THE CITY OF OAKLAND (CITY) TO CONDUCT THE FOLLOWING EXCHANGE OF PROPERTIES WITH THE OAKLAND UNIFIED SCHOOL DISTRICT, A CALIFORNIA PUBLIC SCHOOL DISTRICT (DISTRICT):**

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## City-Owned School Property

