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OAKLAND
2013 JUN 12 PM 3:18

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: FRED BLACKWELL

SUBJECT: 3455 and 3461 Champion Street

DATE: June 4, 2013

City Administrator
Approval

Date

6/11/13

COUNCIL DISTRICT: 4

RECOMMENDATION

Staff recommends that the City Council adopt:

A Resolution Rejecting All Prior Bids And Authorizing The City Administrator To Market For Sale Surplus Property Located At 3455 And 3461 Champion Street, APN 028-0905-013-02 And APN 028-0905-009-00 (Old Fire House #14), For The Future Development Of A Restaurant By Issuing A Notice Of Development Opportunity

EXECUTIVE SUMMARY

Old Fire House #14, located at 3455 and 3461 Champion Street, has exceeded its usefulness as a functional fire house and has been identified as surplus property by both the Oakland Fire Department and the Public Works Agency, as custodian of public facilities. The City has determined that revenue from selling the property would benefit the City and the potential reuse of the building would benefit the surrounding community.

With the exception of the Oakland Public Works Department removing the above ground diesel fuel tank prior to close of escrow, the Property will be sold in an "as is" condition. The minimum acceptable purchase price is three hundred and twenty five thousand dollars (\$325,000). The successful purchaser shall be required to deliver to the City a deposit not less than 10% of the minimum bid price for the Property and to enter into a Purchase and Sale Agreement containing provisions for forfeiture of the deposit for breach of any conditions noted in the Purchase and Sale Agreement.

The City reserves the right to reject any and all offers and waive any informality or irregularity in any offer or to accept any offer deemed in the best interest of the City.

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Pursuant to Ordinance No. 11602 C.M.S., which established procedures for the sale of City owned surplus real property, staff recommends adoption of the Resolution authorizing the City Administrator to market for sale by using the Notice of Development Opportunity process to solicit developers for a full service restaurant at surplus parcels located at 3455 and 3461 Champion Street, for the minimum bid price of three hundred and twenty five thousand dollars (\$325,000).

OUTCOME

Council is requested to reject all prior bids and make a finding and determination that it is in the best interests of the City to sell this surplus property through a Notice of Development Opportunity to a restaurant operator.

Council is also requested to adopt a Resolution authorizing the City Administrator or her designee to market for sale City-owned surplus real property located at 3455 and 3461 Champion Street for the future development of a full service restaurant for a minimum bid price of three hundred twenty five thousand dollars (\$325,000) minus the cost of environmental remediation by means of issuing a Notice of Development Opportunity. Reasonable escrow, title fees, the cost to remove the above ground fuel tank and the cost of environmental remediation will be deducted from the sale proceeds at close of escrow.

BACKGROUND/LEGISLATIVE HISTORY

The property consists of two flat parcels containing a +/- 3,275 square feet building and +/- 8,244 square feet land. The parcel is located in the Dimond District near the Fruitvale exit off of Highway 580 in the City of Oakland. The zoning is CN-1, Commercial Neighborhood One. The General Plan land use classification is Neighborhood Center Mixed Use.

The Property, built in 1945, is adjacent to Farmer Joes and within walking distance to CVS Pharmacy, Bank of America, Wells Fargo Bank, Pete's Coffee McDonald's, Subway and the U.S. Postal Service. The subject property is situated at the neighborhood's transition point between residential and light commercial. The site is within one block of MacArthur Boulevard.

In January 2012, Real Estate staff offered Old Fire House #14 and the adjacent parcel to the general public in a surplus property solicitation.

All responses to that initial solicitation were rejected by staff in favor of reissuing the solicitation including the utility lease income stream from the property. Staff was prepared to move forward with the highest bidder in the second solicitation, but halted that process to consider community feedback voicing concern over potential uses and neighborhood impact that a new business operating at Old Fire House #14 may bring.

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In response to community concern, staff is seeking to sell the property through a negotiated sale and reject bids received previously through a competitive bidding process pursuant to Ordinance C.M.S. 11602. Through this action, staff is requesting that the City Council:

1. Reject all bids received from prior competitive bidding processes.
2. Provide a finding and determination that waiving the competitive bidding process and selling the Property through a Notice of Development Opportunity is in the best interests of the City because of the proposed use and neighborhood benefits (such findings are required by Ordinance 11602); and
3. Authorize the City Administrator to market for sale these surplus parcels located at 3455 and 3461 Champion Street, APN 028-0905-013-02 and APN 028-0905-009-00 (Old Fire House #14) (the "Property") through a Notice of Development Opportunity process.

ANALYSIS

Selling this Property will maximize the City's economic and non-economic return, generating additional property and sales tax revenue to the City, eliminating ongoing maintenance and fire control costs, generate sales tax and reduce future litigation exposure. Oakland Public Works department will contract for the removal of the surplus above ground diesel fuel tank prior to close of escrow.

Staff recommends that the City Council approve a Resolution rejecting all prior bids and authorizing the City Administrator or her designee to issue a Notice of Development Opportunity to market for sale City-owned surplus real property at 3455 and 3461 Champion Street for the development of a full service restaurant for the minimum bid price of three hundred twenty five thousand dollars (\$325,000), plus the cost of environmental remediation. Revenue from the sale could be used to satisfy the City's general fund obligations. The Notice of Development Opportunity and subsequent Development Dispositions Agreement or Conditions Covenants and Restrictions Agreement or Deed Restrictions will enable the City to control future development and ongoing business operations at the subject Property. The City reserves the right to reject all proposals without stating a cause.

PUBLIC OUTREACH/INTEREST

There was one community meeting held in Council District Four.

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COORDINATION

There has been internal and external coordination with regards to marketing the property for sale. In addition, this report and resolution were reviewed by the Office of the City Attorney and by the Budget Office.

COST SUMMARY/IMPLICATIONS

The reasonable cost of environmental remediation, escrow, title and the cost to remove the above ground fuel tank will be deducted from sales proceeds at close of escrow.

The sale proceeds minus escrow, title fees, removal of the above ground fuel tank and the cost of environmental remediation will be placed in General Purpose Fund (1010), Real Estate Services Organization (88639), Surplus Property Account (48111), Surplus Property Disposition Project (P47010), Real Estate Program (PS32).

In addition, the City will receive its share of the future property and sales taxes once the property is returned to the property tax rolls and will save on the ongoing maintenance costs associated with the upkeep of the property and liability exposure. The purchaser will be responsible for all customary City real estate service fees, escrow fees, transfer tax, closing costs, title insurance and other related costs.

After analyzing the bids received from the last marketing efforts and obtaining community input, staff has made a finding and determination that in this case selling the property to the highest bidder is not in the best interest of the City. Selling the property to a restaurant operator will yield the City greater revenue over time because in addition to the purchase price and annual property tax, the City will also receive sales tax, create local jobs, and increase commercial activity.

SUSTAINABLE OPPORTUNITIES

Economic: The sale of this property will take an undemtilized site and produce increased tax revenue for the City. After the sell the new owner will improve the stmcture for business activities which will contribute to job creation in the City and new sales tax.

Environmental: Private ownership of the property will relieve the City of ongoing issues of weed abatement and fire suppression.

Equity: The sale of this property will lead to additional activities appropriate for the zoning in the neighborhood. In addition the citizens of Oakland will be provided with another opportunity to participate in business ownership and developing real estate in the City. This transaction may

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promote additional real estate activity in the area and additional foot traffic in the nearby retail area.

CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact Gregory Hunter, Interim Manager, Exempt Limited Duration Employee, at 510-238-2992.

Respectfully submitted,



Fred Blackwell
Assistant City Administrator

Reviewed by:
Gregory Hunter, Interim Manager, Exempt Limited
Duration Employee, Office of Neighborhood Investment

Prepared by:
Anthony J. Reese, Real Estate Agent
Real Estate Services Division, Office of Neighborhood
Investment

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OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

RESOLUTION No. _____ C.M.S.

RESOLUTION REJECTING ALL PRIOR BIDS AND AUTHORIZING THE CITY ADMINISTRATOR TO MARKET FOR SALE SURPLUS PROPERTY LOCATED AT 3455 AND 3461 CHAMPION STREET, APN 028-0905-013-02 AND APN 028-0905-009-00 (OLD FIRE HOUSE #14), FOR THE FUTURE DEVELOPMENT OF A RESTAURANT BY ISSUING A NOTICE OF DEVELOPMENT OPPORTUNITY

WHEREAS, the City of Oakland owns property located at 3455 and 3461 Champion Street within the City of Oakland (Assessor Parcel Numbers 028-0905-013-02 and 028-0905-009-00), as identified in *Exhibit A* of the Resolution (“the Property”); and

WHEREAS, the Property formally known as Old Fire Station Number Fourteen (14) consists of two flat parcels containing +/- 3,275 square feet building and +/- 8,244 square feet land; and

WHEREAS, with the exception of removing the above ground diesel fuel tank and environmental remediation, the Property shall be sold in “AS-IS” condition; and

WHEREAS, the City makes no representations regarding land use or other permitting issues that may affect the Property; and

WHEREAS, the Property has been declared surplus property and information on the City-owned parcel has been circulated to public agencies as required by the California Surplus Lands Act (Government Code Sections 54220 et seq) and there was no interest expressed or offers received from other public agencies; and

WHEREAS, the sale of this Property is subject to Ordinance No. 11602 C.M.S., which establishes procedures for the sale of City owned surplus real property including through a negotiated sale; and

WHEREAS, per Ordinance No. 11602 C.M.S., the City originally marketed this Property through a competitive bidding process; and subsequent to such marketing, the community raised concerns about the future use of the Property and its impact on the surrounding neighborhood; and

WHEREAS, Section 6 of Ordinance No. 11602 provides an exception to the competitive bidding requirement and the City Council may sell the Property by negotiated sale upon a finding and determination that it is in best interests of the City to do so; and

WHEREAS, the City finds that it is in the best interest of the City to reject all prior bids received and market the Property for development and use as a restaurant, subject to City approvals and permits, because such development and use will strengthen the City's tax base and provide other economic development benefits, such as jobs, contribute to the character and walkability of the neighborhood, and reflect the community's interest in the use of this Property; and

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

WHEREAS, the Property is currently zoned CN-1, Commercial Neighborhood One and the General Plan land use classification is Neighborhood Center Mixed Use; now, therefore, be it

RESOLVED, that the City Council hereby finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and be it

FURTHER RESOLVED, that the City Council hereby finds and determines that the Property is not needed for any public purpose, is surplus to the needs of the City, and rejects all bids solicited through the prior competitive bidding processes; and be it

FURTHER RESOLVED, that the City Council hereby finds and determines that it is in the best interests of the City to waive the competitive bidding requirements of Ordinance No. 11602 C.M.S. and to market and sell this Property through a negotiated sale for the reasons set forth above; and be it

FURTHER RESOLVED, that the City Council authorizes the City Administrator or her designee to market the Property through a Notice of Development Opportunity for development of a restaurant use; and be it

FURTHER RESOLVED, that, with the exception of removing the above ground diesel fuel tank and environmental remediation, the Property will be sold "as-is, where is," and the City makes will make no representation as to the potential use or condition of this Property; and be it

FURTHER RESOLVED, that the City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA under Section 15061(b)(3) (general rule exception, no significant effect on the environment), Section 15183 (projects consistent with the General Plan), and Section 15312 (Surplus Government Property Sales) of the CEQA Guidelines; and be it

FURTHER RESOLVED, that the City Administrator or her designee shall cause to be filed a Notice of Exemption under CEQA with the County of Alameda; and be it

FURTHER RESOLVED, that the City Administrator or her designee is hereby authorized to take whatever other action is necessary with respect to marketing the Property for sale for the future development of a restaurant, consistent with this Resolution and its basic purposes; and be it

FURTHER RESOLVED, that the City Council authorizes staff to consider the respondents' proposed use and future development of the Property in the negotiation process; and be it

FURTHER RESOLVED, that the City Administrator shall return to the City Council for approval of any sale of the Property; and be it

FURTHER RESOLVED, that the City Attorney shall review and approve all documents and agreements related to this transaction as to form and legality, and a copy shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

**AYES - BROOKS, GALLO, GIBSON-McELHANEY, KALB, KAPLAN, REID, SCHAAF, AND
PRESIDENT KERNIGHAN**

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A

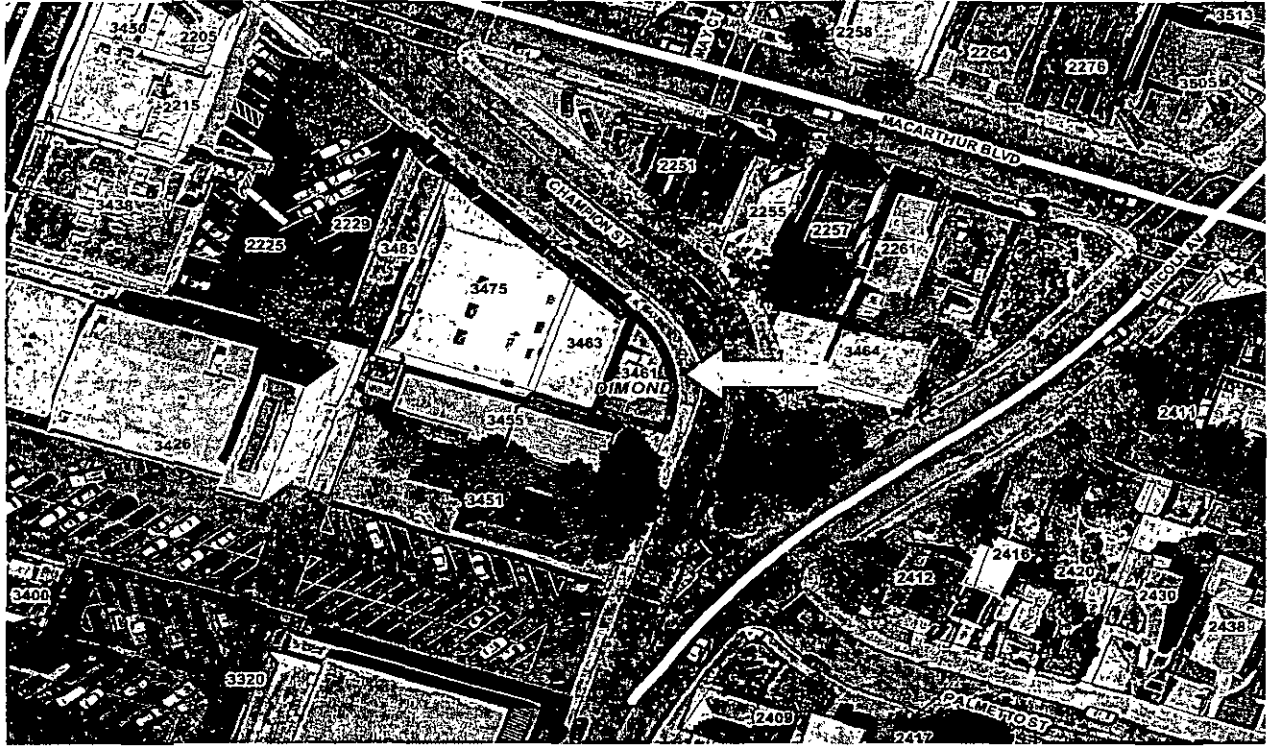


Exhibit A-1

