



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Alexa Jeffress
Director, EWD

SUBJECT: 3455 and 3461 Champion Street DDA
Amendment

DATE: September 29, 2020

City Administrator Approval 

Date: October 5, 2020

RECOMMENDATION

Staff Recommends That City Council Adopt An Ordinance To Authorize A First Amendment To The Disposition And Development Agreement Between The City Of Oakland And Champion Street, LLC, For The Property Located At 3455 And 3461 Champion Street, To (1) Modify The Project Schedule To Extend (A) The Outside Date For Completion Of Construction To June 30, 2021, And (B) The Outside Date The Restaurant Will Open To July 30, 2021, And (2) To Make The Determination That The Action Is Exempt From The California Environmental Quality Act (CEQA).

EXECUTIVE SUMMARY

The City of Oakland (the City) and Champion Street, LLC (the Developer) entered into a Disposition and Development Agreement (DDA) dated as of July 27, 2017 for development of a restaurant (the Project) on the property located at 3455 and 3461 Champion Street (collectively, the Property). The Project Schedule attached as Exhibit C to the DDA provides that construction of the Project must be completed by March 30, 2019 and the opening date of the Project is April 30, 2019. Under the attached proposed DDA amendment, (a) the construction completion date will be extended to June 30, 2021, and (b) the opening date will be extended to July 30, 2021.

BACKGROUND / LEGISLATIVE HISTORY

Ordinance No. 13400 C.M.S., adopted by City Council on November 29, 2016, authorized the City Administrator to negotiate a DDA with Carlos Soloman and Dominica-Rice Soloman or their related entities or affiliates, who were selected via a Notice of Development Opportunity (NODO) process for the sale and development of City-owned property located at 3455 and 3461 Champion Street. On June 20, 2017, the City adopted Ordinance No. 13438 C.M.S., which amended the Term Sheet for the DDA, and subsequently executed a DDA with the Champion

City Council
October 20, 2020

Street, LLC (the Developer) for the development and operation of a restaurant scheduled to open by April 30, 2019. The City and Developer entered into the DDA on July 27, 2017.

The Developer closed escrow on the purchase of 3455 and 3461 Champion Street on June 2, 2018 and received construction loan approval on August 2, 2019. The Developer has made significant progress in the areas of: (1) receiving project approvals, including from Alameda County Environmental Health Department, Oakland Fire Department, Oakland Landmarks Preservation Advisory Board, and the City's Building Department; (2) paying all required permit fees; and (3) obtaining Green Halo Status for its garbage and recycle program.

The Project was delayed due to additional improvements required by City and County regulatory agencies, which included: installation of a full sprinkler and water system, a new water line, new earthquake retrofitting, and a glass entry to keep the building's historical facade. The additional improvements increased construction costs, which required increased financing. The changes also required additional approvals by the City. The Project was further delayed due to public health orders issued by the Alameda County Health Officer in March 2020 in response to the Coronavirus pandemic, which prohibited non-essential business operation and construction.

Since the DDA was executed, a few neighbors have raised concerns related to the impact of the project on the immediate neighborhood. The Developer has committed to City staff, in good faith, to undertake certain actions to address these concerns. This includes posting signs asking patrons to respect neighbors and requiring employees to park outside the immediate neighborhood.

ANALYSIS AND POLICY ALTERNATIVES

1) Approve proposed DDA changes

Approving the proposed DDA changes as provided in ***Attachment A*** will enable the development of a restaurant at the Property to continue as previously approved by City Council. The requested changes are considered minor in scope, and staff believes there will be minimal to no adverse impact to the City by accepting the proposed changes.

The Developer has already invested nearly \$400,000 in architectural drawings and permits to develop the project. Approval of the proposed DDA changes will allow the project to be implemented. Staff believes that it is unlikely that the Developer will seek an alternative location given their investment in this site to date.

2) Do not approve proposed DDA changes

By electing not to approve the proposed DDA changes, the City Council may consider the option to send the Developer a Notice of Default and, pursuant to Section 9.5 of the DDA, may (a) terminate the DDA; (b) institute an action for specific performance to the extent such action is available; (c) exercise its optional right to repurchase the Property for the amount of the Purchase Price (as defined in the DDA), record the Reversionary Grant Deed (as defined in the

DDA), reenter and take exclusive possession of the Property; or (d) pursue all other remedies permitted by law or at equity.

Reissuing a Request for Proposals (RFP) or reopening negotiations with the remaining NODO respondents may or may not yield another candidate that will be able to meet the DDA terms approved by the City Council. Marketing the property for sale again would further delay the redevelopment of the Property, likely for years, and require substantial additional investment of staff time and effort.

Based on the above considerations, staff recommends that the City Council adopt the proposed Ordinance.

FISCAL IMPACT

1) *City Council approves proposed DDA changes*

No fiscal impact.

2) *City Council does not approve proposed DDA changes*

Pursuant to the DDA, if the City exercised its optional right to repurchase the Property, the City must pay the Purchase Price (\$425,000) to Developer. If the City pursued its other remedies, it would incur costs associated with such pursuit.

PUBLIC OUTREACH / INTEREST

The Developer coordinated project approvals from Alameda County Environmental Health Department, Oakland Fire Department, Oakland Landmarks Preservation Advisory Board, and the City's Building Department, and obtained Green Halo Status for its garbage and recycle program. The Oakland Planning and Building Department sent public notices to the neighbors as required. Councilmember Sheng Thao, the Councilmember representing District 4 where the Project is located, hosted a series of meetings with the neighbors.

COORDINATION

This report has been prepared in consultation with the District 4 Council Office, the City Administrator's Office, the City Attorney's Office, Oakland Fire Department, Planning & Building Department, Oakland Public Works Facilities and Environment, and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: The Property was sold to Developer on the condition that Developer develop and operate the Project as a restaurant. This is expected to yield greater benefit to the City over time than retention of the Property by the City because the City received the Purchase Price,

and will receive annual property tax, sales tax and business license tax. Development will also increase commercial activity and create local jobs.

Environmental: The project has obtained Green Halo Status for its garbage and recycle program. The development of the otherwise unutilized Property will prevent the building from falling into further disrepair and potential blight. The proposed action does not otherwise provide significant environmental benefits or impacts.

Race & Equity: The Project will bring a new restaurant to a Census tract that is comprised of 90 percent people of color, increasing commercial activity and creating local jobs to enhance community growth and stability.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

CEQA analysis was completed for the Project, which concluded that the Project satisfies each of the following CEQA Guidelines:

- 15061(b) (General Rule Exemption);
- 15183 (Project Consistent with General Plan);
- 15301 (Existing Facilities);
- 15302 (Replacement or Reconstruction);
- 15312 (Surplus Government Property Sales); and
- 15332 (In-Fill Development).

By adopting the proposed Ordinance, the City Council is adopting CEQA exemptions 15061(b), 15183, 15301, 15302, 15303, 15312, and 15332 and making the determination that no further environmental review is required for the proposed action.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That City Council Adopt An Ordinance To Authorize A First Amendment To The Disposition And Development Agreement Between The City Of Oakland And Champion Street, LLC, For The Property Located At 3455 And 3461 Champion Street, To (1) Modify The Project Schedule To Extend (A) The Outside Date For Completion Of Construction To June 30, 2021, And (B) The Outside Date The Restaurant Will Open To July 30, 2021, And (2) To Make The Determination That The Action Is Exempt From The California Environmental Quality Act (CEQA).

For questions regarding this report, please contact Brendan Moriarty, Real Property Asset Manager at 510-238-6354.

Respectfully submitted,



ALEXA JEFFRESS
Director, Economic & Workforce Development
Department

Reviewed by:

Brendan Moriarty
Real Property Asset Manager

Hui Chang Li
Urban Economic Analyst IV, Economic
Development Department

Prepared by:
Anthony J. Reese, MBA, Real Estate Agent
Real Estate Services Division

Attachment (1):

A: First Amendment to Disposition and Development Agreement